

THE PERSECUTION  
OF TING XUE  
KEN STARR

the weekly

# Standard

JULY 17, 2017

\$5.99

## On the Immigration Frontlines

Seven hours in Riverside  
tracking down 'bad hombres'

BY TONY MECIA



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July 17, 2017 • Volume 22, Number 42



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# Keep On Rockin' in the Free World

**Y**ou have to realize this is 2017 . . . and people will get upset about literally anything. It seems like we live in a world with smart phones and dumb people.”

The quote is from Doris Melton, in a charming online interview with her husband Matthew. They lead a band called Dream Machine, and the interview was meant to promote their new album on Castle Face Records.

When the label's owners read the interview, however, one of them immediately ran to Facebook to declare that Castle Face was sickened by the Meltons' "ugly opinions" and would terminate the label's relationship with the band. Boycotts are underway, thus proving Doris's assertion.

How ugly are the Meltons' opinions? Doris, who's from Bosnia, had the nerve to say something nice about ICE, Immigration and Customs Enforcement:

I'm glad they're finally starting to work on deporting criminal illegal aliens too. It took ages for me to get my green card here legally and because there's so many illegals coming in they make it hard for the people who do want to become part of American society the right way. They're handing out free money to people who come here illegally,

but when you want to work hard to become an American citizen to start a family they make it so hard on you, and expensive!

As Marlon Brando so eloquently put it: *The Horror!* (Or was that Joseph Conrad?) The interviewer asked Doris what annoyed her most about

make songs about being 'sexually assaulted' or about how 'empowering' abortions are," she said. "They're embarrassing themselves."

THE SCRAPBOOK may be showing its age, but we can remember when the point of rock and roll was rebellion, a nose-thumbing at a sclerotic status quo. How refreshing to find that, at least in one small corner of the music world, that spirit lives on—and how unsurprising that the music business has itself become an establishment even more reactionary than the one it replaced.

As it happens, the Meltons said in the same interview that they were moving to Amsterdam for the foreseeable future. Even so, said Matthew, "I will always consider myself a red-blooded American." He added wryly: "And just like the waves of refugees pouring into Europe I will also not be learning any new languages or culturally assimilating."

But the move, for now, seems necessary. Said Doris: "American musicians (hopefully not Europe too) are getting increasingly politically correct and it started getting on our nerves."

With admiration for their plain-spokenness and their willingness to think for themselves, we wish the Meltons bon voyage—and hope they hurry back. ♦



*The Meltons' latest album, 'The Illusion'*

the music business. You may want to send the kids outside.

"[G]irls have mostly become lazy jellyfish and are starting these horrible feminist bands just to try and 'show men what they got.' The safe space mentality has made them weak. They don't even know how to play their instruments! They'll

## Our Boys in Blue

**H**ampton, Virginia, has been promoting itself as a tourist destination with a campaign advertising the coastal region as a place to "Come Face-to-Face with Adventure." Visitors are urged to "Discover the history, the attractions and the flavorful culture" of the city. In a display ad, the flavor-



ful culture is illustrated by a chef; the attractions by a shopper and an astronaut (there's a NASA visitors' center there); and the history by a pirate and a Civil War soldier. Which is where the advertisement is particularly interesting. Take a look at left.

The soldier is, of course, dressed in Union blue, not Confederate gray. Yes,

the Hampton coast is home to Fort Monroe, which the North controlled throughout the late unpleasantness. Still, there is something jarring about a city in Virginia—the state where the Confederacy placed its capital—promoting itself with a sword-wielding Yankee.

Jarring, but perhaps not surprising. In an age of increasing pressure to remove even the most anodyne of Johnny Reb statuary from public spaces in the South, *THE SCRAPBOOK* suspects that Fort Monroe provided the Hampton ad team with a welcome opportunity: a way to celebrate the region's Civil War significance without having to depict anything so hateful as a Confederate soldier.

We wonder how long it will be before Atlanta builds an ad campaign around General Sherman. ♦

## Rounding Error

Donald Trump has been hoping China would pressure North Korea to behave itself, perhaps by restricting trade with the hermit kingdom. No such luck. And as the *New York Times* noted, “Mr. Trump vented his displeasure with China in a pair of early-morning tweets.” Being that these were tweets, and that the tweets came from Trump, the *Times* had to find a way to call them into question.

The more substantive of the two tweets, published at 7:21 the morning of July 5, read as follows: “Trade between China and North Korea grew almost 40% in the first quarter. So much for China working with us—but we had to give it a try!”

“It was not clear,” the *Times* promptly sniffed, “where Mr. Trump garnered his 40 percent figure for growth in overall trade between China and North Korea.” As if to prove the president's know-nothing buffoonery, the *Times* proceeded to cite figures about various commodities traded between China and North Korea. It was a couple of paragraphs later that the *NYT* finally got around to



62 SUMMIT

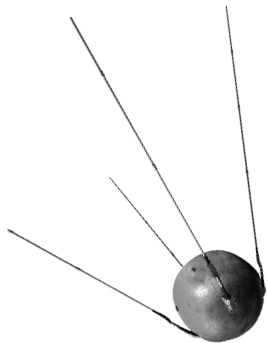
official Chinese data: “China’s trade with the North grew 37.4 percent during the first three months of the year, compared with the same period in 2016,” the *Times* reported.

The last time *THE SCRAPBOOK* checked, “almost 40%” was a perfectly reasonable way to round 37.4 percent, and “the first quarter” meant the same as “the first three months of the year.” In other words, the Trump tweet was spot on. It also means that, sniffy posturing notwithstanding, the *Times* knew exactly where the president had “garnered” his figure. ♦

## Trading Banjos for Balalaikas

Last year, American University put up for sale one of Washington’s beloved local institutions: Bluegrass Country 105.5 FM, a radio station that had been dedicated to traditional folk music of the region. Now, if you tune the dial there expecting to hear banjos and fiddles, you’re in for a bit of a shock. The new station owners recently began broadcasting Sputnik Radio, an unabashedly pro-Putin Russian propaganda outlet. Russophilia has replaced Americana on this particular slice of the capital region’s airwaves.





THE SCRAPBOOK spent a few days driving around with the station on, and if you're looking for bizarro-world news and endless gab-fests about how America is populated with imperialist running dogs, well, Sputnik Radio is for you. The station's Moscow-mandated agenda is impossible to ignore. There's an obsession with the prospect of missile defense systems being deployed in Europe, and NATO is an epithet—member countries are derided as “vassal states” of America. There's a lot of talk about Syria. And if it were up to Sputnik Radio, Oliver Stone would win an Oscar, an Emmy, and a Pulitzer for his “Putin Interviews.”

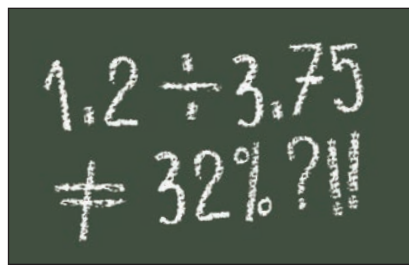
And yet, for all the dark intimations we keep hearing about a Trump-Russia conspiracy, there's nothing on Sputnik Radio about American greatness. Instead, there's an abundance of warmed-over Cold War talking points, barely updated. Listening to Sputnik is like entering a time-warped universe where one could be forgiven for mistaking the pro-Russian propaganda for good old Soviet agitprop.

Mindia Gavasheli, the editor overseeing Sputnik, has big plans: “We hope that our entrance onto the Washington market is just the first step, and will strive to ensure that more and more people are able to hear our broadcasts instead of rumors about them.” No doubt there will be, if they can find more station owners willing to take Kremlin cash. ♦

## Taxes Sure Do Add Up

The Illinois legislature responded to the state's ongoing fiscal crisis by—what else?—voting to hike the state income tax by a third, from over 3-and-a-half percent to nearly 5 percent. Republican governor Bruce Rauner fought against the budget, denouncing what he accurately described as a 32 percent increase in the tax rate.

That caused no little confusion for Rep. Emanuel Chris Welch of Illinois's 7th District, who tweeted the following outraged tweet: “Our tax rate increased 1.2 percentage points. Not 32% as Rauner wants you to believe! #knowthefacts #BudgetNow #Compromise.” Attached to the tweet



was a graphic that read, “The Illinois Income Tax Increase goes from 3.75% (where it is now) to 4.95%. A 1.20% increase, NOT 32% as Rauner says!”

After much online chortling at Welch's innumeracy, the tweet was eventually deleted. But we wouldn't blame citizens of Illinois if the mockery endured.

Much has been written about Illinois's massive financial woes, problems largely the result of Democratic machine pols canoodling with corrupt unions for decades. But THE SCRAPBOOK humbly submits another reason for Illinois's problems: trouble doing math. ♦

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The Weekly Standard (ISSN 1083-3013), a division of Clarity Media Group, is published weekly (except the first week in January, third week in April, first week in July, and third week in August) at 1152 15th St., NW, Suite 200, Washington, DC 20005. Periodicals postage paid at Washington, DC, and additional mailing offices. Postmaster: Send address changes to The Weekly Standard, P.O. Box 421203, Palm Coast, FL 32142-1203. For subscription customer service in the United States, call 1-800-274-7293. For new subscription orders, please call 1-800-274-7293. Subscribers: Please send new subscription orders and changes of address to The Weekly Standard, P.O. Box 421203, Palm Coast, FL 32142-1203. Please include your latest magazine mailing label. Allow 3 to 5 weeks for arrival of first copy and address changes. Canadian/foreign orders require additional postage and must be paid in full prior to commencement of service. Canadian/foreign subscribers may call 1-386-597-4378 for subscription inquiries. American Express, Visa/MasterCard payments accepted. Cover price, \$5.99. Back issues, \$5.99 (includes postage and handling). Send letters to the editor to The Weekly Standard, 1152 15th Street, NW, Suite 200, Washington, DC 20005-4617. For a copy of The Weekly Standard Privacy Policy, visit [www.weeklystandard.com](http://www.weeklystandard.com) or write to Customer Service, The Weekly Standard, 1152 15th St., NW, Suite 200, Washington, DC 20005. Copyright 2017, Clarity Media Group. All rights reserved. No material in The Weekly Standard may be reprinted without permission of the copyright owner. The Weekly Standard is a registered trademark of Clarity Media Group.



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## The Not-So-Grand Tour

To the recent college graduates who have somehow failed to spend all of Daddy's money in five-and-a-half years, fear not, tradition says you deserve a vacation. Consider it your version of the Grand Tour, the jaunt through Europe that served as the capstone to a formal education in centuries past for (privileged) young people, exposing them to the greatness of Western civilization and the suffocating politeness of high society "on the Continent."

In the 21st century, of course, that means a meticulously planned, shockingly expensive social media safari. There may be less high culture, but that's no reason to skip the politeness: "Three Michaelan-jello shots, *grazie!*"

As a young person starting down the barrel of adult life, I well understand the Grand Tour impulse. In fact, I've just completed a graduation tour of my own. It was less than grand. Diplomas secured, a college friend and I set out on bicycles from St. Louis to Baton Rouge. I had plenty of time to daydream jealously about Florence while drafting behind him. Unless you're the lead dog, the view never changes.

We pedaled 65 to 70 miles every day and looked for cheap places to sleep—campgrounds, motels, churches, charitable people with couches. This was how we found ourselves one night in a primitive state park campground in Mississippi. There were no lights, showers, or restaurants for miles around. The place was empty, save for a half-dozen bikers (motorized division) who had already strung up hammocks and tarps between the pine trees when we coasted in. Black leather vests, braided white beards,

and country music blaring from one of the Harleys completed the scene.

Hunger and boredom overrode cowardice and Northern reserve. We introduced ourselves. These, we were told, were the men of the DaMant clan and they politely explained how they were "kin" to one another. Like the characters in a Russian novel, everyone was someone else's papa, brother, or step-cousin, and we could only nod and pretend to comprehend.

Silas, the only nonrelation, owned



a convenience store and knife shop and was a "total badass," according to the group, a compliment he affirmed with a nod. When asked how many guns he had tucked away in his shop, he seemed to lose count after nine, including the sawed-off .410 with a deer antler for a handle hanging above the door. How does he make them beautiful knives? "All my ideas come from smoking weed," he explained. DaWayne, who looked like the oldest brother, passed us sausages off the grill and insisted we eat.

Feeling thoroughly welcome, we settled into the cultural exchange. "Do you all have sweet tea up north?" Yes, but it's not as big a deal. "How about grits?" Kind of, but not really.

"You had crawfish yet?" No, but we're planning on it. "What about chitterlings?" Boiled pig intestine, no, definitely not.

At 8 years old, a DaMant boy would start with the family roofing company, baking every day in the heat alongside the older men. It's a step up from what their grandfather did for a living—sharecropping—which has only just vanished from their corner of Mississippi. They regarded the loss of tenant farming and their old ways with a certain nostalgia. Silas the Badass said Walmart was to blame.

"When you're poor like us, you have to use what you have to make what you want, and we all have scars from when it didn't work out so good," someone explained, offering us home-made 100 percent DEET for the bugs, which we politely refused. "If they take our guns we'll build better ones!" one of the elders toasted.

My favorite story was the one about a family friend who lost his full set of dentures out the pickup truck window, but by now you get the picture: The newly minted college graduates collided with the ultimate rednecks.

Our night at the campground was an absolute pleasure, the high point of our itinerary. Young people have always loved travel, but we perhaps tend to overload our luggage with high expectations. You'll remember that Lucy Honeychurch, the heroine of E. M. Forster's *A Room with a View*, only smooched her darling George after she had misplaced her guidebook and lost her chaperone. I hear Florence is lovely this time of year, but we never would have met the DaMants there.

Had we made the right choice for our Not-So-Grand Tour? The DaMants' final question was literally all the proof I needed. "Y'all ever tried moonshine?" they asked. Well, now we have.

GRANT WISHARD

# Pressuring North Korea

The response was typical Trumpism—with a soupçon of *Mean Girls*. Just as he had called jihadists “losers” a few weeks prior, the president reacted to North Korea’s test launch of a midrange ballistic missile on July 3 with a gibe that cut to the quick. “Does [Kim Jong-un] have anything better to do with his life?” he mused on Twitter.

President Trump has a point. Even though North Korea’s economy has shown a slight pulse in recent years—thanks to the growth of unofficial markets and various cronyist enterprises for well-connected elites, like mining operations—the country remains in dire straits. Outside of Pyongyang, food shortages remain a serious problem. Kim quite literally *does* have something better to do: improve the lives of his people, rather than divert massive sums towards the military and his nuclear and missile programs.

On the other hand, the Kims have been quite canny. Some time ago, they made the strategic decision that the only way to ensure the survival of their regime was to become a bona fide nuclear state, capable of wreaking mass devastation on South Korea, Japan, and the United States. Pyongyang has already checked the first two off its list; now, with the launch of a missile that can apparently hit Alaska, it appears tantalizingly close to achieving its ultimate—and horrifying—aim. Experts suggest that in just a year or two, North Korea will be able to launch a nuclear attack on the continental United States.

Of course, the North Koreans have had help in the form of nearly a quarter-century of feckless American policy. The less said about the 1994 “Agreed Framework,” the better. That deal, struck between the Clinton administration and the North Koreans, was supposed to stop the regime’s nuclear program in its tracks. What it actually did was buy time for the Kims to continue down their primrose path—and illustrate the folly of pursuing “diplomacy” as an end unto itself.

American politicians often bemoan outsourcing to China. Yet the last three presidential administrations have largely done just that when it comes to North Korea policy. That’s not inherently idiotic: China, as North Korea’s largest trading partner by an order of magnitude, does have significant leverage over the small despotic state on its northeastern border. China also

supplies North Korea with the vast majority of its oil and gas. (There is only a tiny amount of fossil fuels on the Korean peninsula.) But what presidents Clinton, Bush, and Obama failed to recognize is that *we* have leverage over China. Either that, or they were too timid to use it.

President Trump, on the other hand, seems willing to finally press Beijing. Since the disturbing but thankfully brief bromance that was struck up between Trump and Chinese president Xi Jinping after their April meeting in Palm Beach, the Trump administration has decided to take some much-

needed action. It cut the Bank of Dandong out of the U.S. financial system, for example, after accusing the lender of facilitating transactions for companies involved in North Korea’s weapons programs. This is a good start. The Trump administration has also declared that China has a major problem when it comes to human trafficking. (Indeed, the trafficking of North Korean refugees in China’s northeast is a global scandal.) And even some

of the matters that appear not altogether related to North Korea—Trump’s threatened action on Chinese steel exports, for example—can be viewed as the president using American leverage to press China to take action on North Korea.

There’s more to be done, of course. Given the savage murder of college student Otto Warmbier, whose only crime was to be young and naïve enough to visit North Korea, it’s absurd that the Trump administration has not yet implemented a travel ban to the country. (The State Department has allowed that it’s considering such a move.) Tourism to the totalitarian state remains a source of much-needed foreign lucre for the regime. And the president would do well to stay out of his own way, by, for instance, no longer needlessly insulting South Korea, a vital ally in the struggle against the belligerent neighbor to its north.

President Obama gussied up his do-nothing North Korea policy by calling it “strategic patience.” With North Korea distressingly close to being able to launch a nuclear attack on the United States, the time for patience is over. President Trump should embrace a new posture towards China and North Korea: Call it “strategic impatience.”

—Ethan Epstein



*A jubilant Kim Jong-un, in a photo released July 5*





# The Persecution of Ting Xue

The Justice Department needs to overhaul America's asylum laws. **BY KEN STARR**

**T**ing Xue, a committed Christian, is a refugee who fled from religious persecution in his native China. He now lives in Denver with his wife, a lawful permanent resident who likewise hails from China, and their young daughter. Xue has a job, pays taxes, and is active in a local evangelical church. But if the federal government has its way, Xue will soon be separated from his family and sent back to China. He is fighting hard for his freedom.

Ting Xue's story is a living parable that reveals a deeply troubling truth: For years, the federal government has routinely denied claims such as Ting Xue's for asylum. That meanspited practice results from the steely determination of a cadre of immigration law judges, who wield enormous power

over life and limb, to deny claims for asylum and dispatch individuals back to face the tender mercies of their countries of origin. Appointed by the attorney general, these 300 judges across the country do so by erecting a virtually insurmountable barrier for an asylum claimant, such as Xue, who seeks to demonstrate the pivotal requirement of a "well-founded fear of persecution" based on religion. That's the legal key that unlocks the door to freedom in the United States.

The facts in Ting Xue's case are clear and undisputed. Xue grew up in a Christian family in China, was baptized at the age of 13, and was long active in an underground church in his community. As a young adult, in addition to Sunday worship services, Xue faithfully attended Friday evening fellowship gatherings, which moved from house to house in order to avoid detection. On one fateful Friday evening

in 2007, however, police entered the venue du jour and arrested the attendees, who were peacefully reading the Bible, singing hymns, and enjoying Christian fellowship.

Xue was hauled to a local police station along with his fellow worshippers, interrogated by three officers, roughed up when he claimed not to know who the "leaders" of the underground church were, and then locked up in a windowless jail cell with four fellow believers for three days and four nights. The conditions were deplorable: one straw mattress for five prisoners, a single bucket for their toilet, and a bowl of porridge twice a day. The prisoners were mocked, particularly when they prayed together before their simple meals. Jailers taunted them with cries of "We are your God" and "Pray to your Jesus to rescue you."

Before his release from police custody, Xue was forced to sign a pledge that he would never attend the underground church again. He was also warned that a second offense would carry a harsh punishment. For good measure, his jailers ordered him to show up at the police station weekly for ideological education. Xue signed the pledge but violated it two weeks later. He returned to the underground church but grudgingly abided by the command to appear for his weekly dose of Communist ideology: Love your country, work hard, and cease assembling in the name of Jesus.

Two months later, police again intruded into the Friday evening gathering of young adults, arrested everyone, and sent several of Xue's colleagues to prison for one-year terms. Working overtime at his job on that Friday evening, Xue was spared, but his family determined that he needed to get away. With funds raised by his uncles, Xue left China and entered the United States illegally. He was soon apprehended by U.S. immigration authorities, whereupon he claimed the right to remain in the United States as a refugee fleeing religious persecution.

Under federal law, asylum claimants must establish a "well-founded fear of persecution" on grounds of religious or political belief and practice were they

ALAMY

*Ken Starr is a former U.S. solicitor general and federal circuit court judge.*



to be deported back to their country of origin. Responding to Xue's undisputed portrayal of his own plight, an immigration law judge in Denver concluded that his story (which the judge fully credited) showed merely a restriction in his freedom, but that the conditions he likely faced upon return did not rise to the level of "persecution." As the judge saw it, all Xue needed to do to avoid running afoul of the anti-faith zealots in China was to worship in secret.

This wildly wrongheaded decision was not only upheld by the Board of Immigration Appeals, likewise appointed by the attorney general, but by a unanimous three-judge panel of the federal appeals court sitting in Denver. As matters stand, Xue's last hope is to get relief from the Supreme Court, which will consider his petition for review early this fall. Many faith-community organizations have rallied around Xue's position as a matter of law and human decency.

For years, tragic situations like Xue's have been replicated throughout America's broken asylum adjudicatory system. Time and again, asylum claimants from around the world are told to go home. All they need to do, they are informed, is to hide their faith or their politics. Stop practicing and professing in any community or public setting, even in an underground church or political setting, and you'll be fine. Just keep silent.

Time and again, federal judges have rejected this widespread bureaucratic approach to asylum claims. In a brilliant opinion a few years ago, Judge Richard Posner reminded immigration judges: "Christians living in the Roman Empire before Constantine made Christianity the empire's official religion faced little risk of being thrown to the lions if they practiced their religion in secret; it doesn't follow that Rome did not persecute Christians." Posner went on to observe: "One aim of persecuting a religion is to drive its adherents underground in the hope that their beliefs will not infect the remaining population."

Just so. China is pre-Constantine Rome, minus the lions. Persecution is

widespread—and growing. As Sarah Cook demonstrates in her impressive new book *The Battle for China's Spirit*, controls over religion in China have been on the rise since 2012, seeping into new areas of daily life. President Xi Jinping is at the vanguard of this new wave of official repression. He makes nice with President Trump at Mar-a-Lago, but party minions back home fully understand his anti-liberty, militantly secularist message about Christians. Here's what Xi Jinping said in April 2016: "Communist party cadres must be unyielding Marxist atheists. We should guide and educate the religious circle and their followers."

"Guidance and education" means prison for increasing numbers of believers in China and the courageous lawyers who represent them. Freedom House researchers have identified hundreds of cases of Chinese citizens sentenced to prison for exercising their basic freedoms guaranteed by the Universal Declaration of Human Rights. Former prisoners have detailed a shocking array of cruel "beatings, long-term shackling, electric baton shocks, and injection with unknown drugs." That's the China of Xi Jinping.

So what is to be done here at home? Xue's fate now rests in the hands of the Supreme Court. The Court can and should bring clarity to the law, particularly the meaning of the all-important

term "persecution," a word that Congress left undefined. But more broadly, this evil manifestation of the "deep state" provides the still-new administration with an opportunity to bring about humane and sensible reform.

Start with the immigration law judges. Unlike federal judges, they are subject to the command and control of the attorney general. Ironically, the attorney general needs to take a page from the repressive Xi Jinpings and "guide and educate" the immigration judges, followed by the Board of Immigration Appeals. They all need retraining. And the Justice Department's Civil Division needs to stop defending the indefensible. "Confessing error" in Ting Xue's sad case would be a good start. The solicitor general should say, in the spirit of Fiorello La Guardia, "When we make a mistake, it's a beaut." More generally, President Trump should not allow his attorney general to punt on questions of asylum law, as his predecessors, both Democratic and Republican, allowed their attorneys general to do.

As Margaret Thatcher was wont to say: "Keep the best, reform the rest." Reform of the administration of America's asylum laws is long overdue. It's a worthy and noble cause for Attorney General Jeff Sessions to pursue, and for the nation's chief executive to embrace. ♦



THE KIM JONG-UN FAMILY REUNION.

# Resisting Trump's Voter Fraud Inquiry

But all the state data are available  
with this one easy trick. **BY MICHAEL WARREN**

Delbert Hosemann doesn't have the profile of a member of the Resistance. For one thing, he's a Republican elected official. He's also from Mississippi, where Donald Trump won nearly 58 percent of the vote in an election that Hosemann, as secretary of state, personally oversaw.

But the 70-year-old Hosemann became the latest hero of anti-Trump activists and journalists late last month when he issued a preemptive shot across the bow of the Trump administration and its “Presidential Advisory Commission on Election Integrity.” The commission, chaired by Vice President Mike Pence, is tasked with submitting a report on the integrity of American elections and the “vulnerabilities” in voting systems.

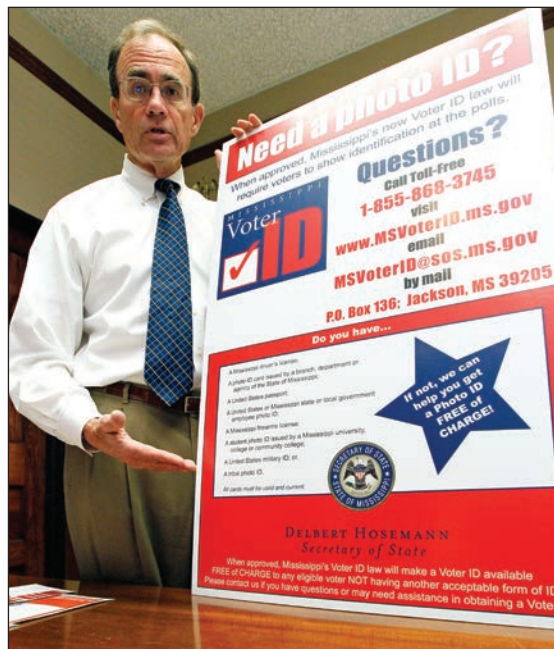
To this end, it has been asking state elections officials to provide a set of data on everyone who voted in the 2016 election. Most of the requested information is standard stuff: names, addresses, dates of birth, voting histories. But the commission also wants to know which voters had felony convictions, if any were registered in another state, and (wherever available) the last four digits of voters' Social Security numbers.

The official request had not yet reached Hosemann on June 30, but a fellow secretary of state had told him what was to come. "In the event I

*Michael Warren is a senior writer at THE WEEKLY STANDARD.*

were to receive correspondence from the Commission,” he announced in a statement, “My reply would be: They can go jump in the Gulf of Mexico and Mississippi is a great state to launch from.”

Other elections officials quickly got in on the pithy public-rejection



*Delbert Hosemann in 2012 with an example of signage in Mississippi with information for voters about photo IDs*

game. Kentucky secretary of state Alison Lundergan Grimes, a Democrat, cheekily said there was “not enough bourbon” in the Bluegrass State to make her comply. Terry McAuliffe, the Democratic governor of Virginia, said he would not fulfill the request and called the commission’s existence a “pretext to validate Donald Trump’s alternative election facts.”

So far, 14 states and the District of Columbia have refused to provide the

requested materials, with 16 more still considering the request. The resistance (so to speak) is not strictly partisan: In addition to Mississippi, several of the states have Republicans in charge of their elections. And even among the 20 states who are complying, most are unable or unwilling to turn over every piece of information requested.

No one better summed up the thrust of the states' objection to the commission's request than Maryland attorney general Brian Frosh. "I find this request for the personal information of millions of Marylanders repugnant; it appears designed only to intimidate voters and to indulge President Trump's fantasy that he won the popular vote," said the Democrat. "Repeating incessantly a false story

of expansive voter fraud, and then creating a commission to fuel that narrative, does not make it any more true.”

The genesis of the Commission on Election Integrity was certainly President Trump's unsubstantiated claim to lawmakers, just a few days after his inauguration, that between 3 million and 5 million illegal votes were cast for his opponent. The White House worked quickly to transmogrify this claim into a broader concern about the health of our electoral process. "I think in terms of registration, where you've got folks on rolls that have been deceased or moved or registered in two counties, this isn't just about the 2016 election. This is about the integrity of our voting system,"

said Sean Spicer, the White House press secretary, on January 25.

The administration promised to look into the issue, and in May Trump established the commission, putting Mike Pence in charge and making Kris Kobach, the secretary of state of Kansas—a staunch enforcer of strict voter ID laws—its vice chairman. In June, Hans von Spakovsky, a voting rights expert at the Heritage Foundation and a former official in

ROGELIO V. SOLIS / AP



the George W. Bush Justice Department, was named to a position on the commission. All in all, it's a lot of time and resources being expended to justify Trump's spurious claim.

But is the commission's request really "repugnant"? Almost all of the data the White House is asking for are publicly available to anyone willing to pay. There are voter-data services that maintain large databases of information from state election commissions. One D.C.-based company, Aristotle International, overlays such information with other consumer data and sells it to political campaigns.

The amount of voter data, and the permutations of possible search criteria, that Aristotle sells is astounding and a bit overwhelming. Full names, dates of birth, home addresses, voter history—it's all there. About the only pieces of information the president's commission requested that aren't available for purchase are Social Security numbers and felony convictions. But for a price, anyone—even the president of the United States—can have the rest.

The bigger the electorate, the greater the cost. For data from California, which cast just under 14.5 million votes in 2016, Aristotle would charge you \$433,398.21. For Wyoming, where only 250,000 voters went to the polls, you can get the complete data set for \$7,682.64. Maryland's 2016 data (2.8 million votes) costs \$84,290.80, Arizona's (2.4 million votes) \$72,885.18.

The information isn't cheap. Jarrod Agen, a spokesman for Vice President Pence, said the commission hasn't discussed purchasing the voter data from recalcitrant states. But despite Delbert Hosemann's invitation, there's no need for Trump's commission to jump into the Gulf of Mexico to get Mississippi's data. A check made out to Aristotle for \$35,591.10 would do it.

And as Aristotle's national data sales manager Kori Bishop notes, there's a price break when buying in bulk. "If President Trump came and knocked on my door," Bishop said, "I would give him a discount." ♦

# The Great Day-Care Sexual-Abuse Panic

A travesty of justice no one wants to remember.

BY PHILIP TERZIAN

One evening in 1984, working late in the offices of the *Los Angeles Times*, I was interrupted by a reporter giving a local woman a tour of the premises. The woman's name was Judy Johnson, the reporter informed me, and she was the principal source for a story that had just broken—and had hypnotized Los Angeles and, not least, the *Times*: the McMartin preschool sexual abuse case. Three generations of the McMartin family—77-year-old Virginia McMartin, her 56-year-old daughter Peggy McMartin Buckey, and two grandchildren in their twenties, as well as three teachers—had been arrested and charged with multiple counts of child molestation involving dozens, perhaps hundreds, of children over two decades of their nursery school's existence in nearby Manhattan Beach.

The numbers were staggering, and the details were lurid: A generation of preschoolers had been subject to all manner of sexual degradation and physical abuse, including rape; small animals had been ritually sacrificed and children fed their blood; there had been field trips to local cemeteries to dig up corpses. Peggy McMartin Buckey was accused of "drilling" the limbs of students, and her 26-year-old son was alleged to have levitated inside the schoolhouse.

In retrospect, of course, the details were not just lurid but ludicrous. The McMartin preschool had been a popular institution in Manhattan Beach, and since the opening of its current location in 1966, no child or parent had ever

mentioned such practices or mistreatment. But some months before she was shepherd around the *Times* newsroom, Judy Johnson had suspected that her son might have been molested at the school—he had painful bowel movements—and one thing led to another. A mistaken diagnosis of possible sexual penetration led to a police inquiry, and while Judy Johnson's son repeatedly denied being molested, parents were invited by police to share their suspicions, and children were interviewed by local child-protective services to solicit details.

The results were sensational: The police were quickly persuaded that ritual satanic sexual abuse—a popular preoccupation of the era—was a regular feature of life at the McMartin preschool, and social workers prompted and (in many cases) badgered their 3- and 4-year-old witnesses to affirm and repeat increasingly fantastic accounts. This was the pre-social-media era, to be sure; but the national press and assorted TV personalities—including future Presidential Medal of Freedom laureate Oprah Winfrey, talk-show host Sally Jessy Raphael, and newsman Geraldo Rivera, among many others—seized on the story with particular relish, and a nationwide hunt began. In the subsequent decade, the McMartin case was followed by many more spectacles—featuring comparably outlandish, and curiously identical, tales—involving dozens of nursery schools across America and hundreds of day-care employees, mass arrests, prosecutions, and deliberately long prison sentences.

For a couple of reasons, I remain haunted, to some degree, by my brief encounter with Judy Johnson.

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I confess that I had not paid much attention to the McMartin story, which was regularly featured on the front page of the *Times*; but I mildly distrusted the reporter involved, and Judy Johnson struck me that evening as disturbed. (She died of alcoholism, age 42, two years later.) Shortly thereafter I approached the op-ed page editor with the suggestion that since the McMartin allegations seemed so preposterous, and the principal complainant was self-evidently unstable, perhaps the *Times* should invite a literary psychiatrist to ponder the phenomenon of “satanic ritual abuse” and public hysteria?

Fixing me with a look of unexpressed horror, the editor dismissed my bright idea with a shake of the head and wave of his hand.

The other troubling detail is that while the vast majority of the dozens of day-care sexual-abuse cases across the country collapsed in the ensuing years, and innocent teachers and helpers were liberated after years of imprisonment, I was astonished to discover that Fran and Dan Keller, the one-time proprietors of a nursery school in Austin, Texas, who had been tried and imprisoned on similarly fantastic grounds—mass orgies with small children, Kool-Aid laced with blood, animal dismemberment, flights across the border for rape by Mexican soldiers—had only recently been released from prison *after 21 years*, thanks to a press campaign, and exonerated last month by the Austin district attorney.

It’s unpleasant to contemplate the daily existence of an accused child rapist in a Texas (or in any) prison—Mr. Keller is 75 years old, and Mrs. Keller is 67—but no state financial settlement (reportedly \$1.7 million each) can compensate their suffering from charges for which the DA concedes there is “no credible evidence.”

The blunt fact is that the “satanic” day-care ritual-abuse cases of the 1980s and early ’90s were our contemporary version of the Salem witch trials of the 1690s; and since human nature tends to be immutable, they featured many of the same symptoms across the centuries: mass hysteria,

impressionable and unreliable child-witnesses, prosecutorial zeal and abuse, a mob tendency to prey on the hapless and defenseless. The devil in Massachusetts took the form of religious belief in malevolent spirits; in California—and in Texas, Illinois, Florida, and elsewhere—the frenzy was sanctioned by public credulity,

**The blunt fact is that the ‘satanic’ day-care ritual-abuse cases of the 1980s and early ’90s were our contemporary version of the Salem witch trials of the 1690s; and since human nature tends to be immutable, they featured many of the same symptoms across the centuries.**



Peggy McMartin Buckey, right, and her son Raymond Buckey in court in 1985

police and judicial misconduct, sensational journalism, and a ritual conviction, among certain therapists, social workers, and polemicists, that children never lie. And as happens when such episodes explode and blight the landscape, they are quickly and efficiently tossed down the memory hole.

In the McMartin case, the longest and most expensive criminal trial in California history ended without any convictions, but not until the family had been disgraced and imprisoned for years. In North Carolina, consecutive life sentences were handed down to the blameless staff of a nursery

school in Edenton. In New Jersey, an idealistic 23-year-old day-care teacher named Kelly Michaels spent five years in prison before exoneration. In Wenatchee, Washington, a renegade police detective named Robert Perez arrested 43 innocent people on 29,726 spurious charges of “satanic abuse”—the last of whom were not released from confinement until 2000.

In Wenatchee, however, one footnote is significant: When a local clergyman and his wife publicly questioned the case’s validity, Lieutenant Perez promptly arrested them both and charged them with multiple counts of child sexual abuse. Which is to say that while skeptical voices were occasionally raised in those years, such stands on principle involved genuine risk. And in that sense, there were honorable exceptions to the tenor of the times: Some lawyers and journalists and psychiatrists and plain citizens eventually spoke out, and efforts were made to counteract the natural tendency of prosecutors and courts to defend their official behavior. Dorothy Rabinowitz of the *Wall Street Journal* took up the cause of the Amirault family of the Fells Acres Day Care Center of Malden, Massachusetts—most of whom were exonerated, the last of whom was released from custody in 2004—and was belatedly awarded a Pulitzer Prize.

Fran and Dan Keller of Austin now have the melancholy satisfaction of closing one of the later chapters of this saga. But it’s not clear that the relevant lessons have been learned. There is very little public discussion, or even disputation, about this alarming episode in recent American life, and most of the comparative handful of books and essays on the subject tend to draw erroneous, and highly politicized, conclusions: It was all a Reagan-era reaction to the entry of women into the workforce and unconscious guilt about placing children in day care. I don’t think so. It was, by contrast, a reminder that for all our modern pretensions, human beings have evolved rather less than we like to think. And the wheels of justice can turn very slowly, and feature infinite suffering. ♦



# Winning Again in Space

Trump and NASA.

BY FRED LUCAS



*With NASA astronaut Kate Rubins, left, and his daughter Ivanka, Donald Trump speaks with NASA astronauts aboard the International Space Station, April 24, 2017.*

One of the lesser-noted lines from Donald Trump's inaugural address was "We stand at the birth of a new millennium, ready to unlock the mysteries of space." During his speech to a joint session of Congress a month later, the president said, "American footprints on distant worlds are not too big a dream."

His predecessor didn't reference space or the National Aeronautics and Space Administration in either of his inaugural addresses. Barack Obama did mention NASA in four State of the Union addresses, but three used the agency simply as an example to inspire future funding for medical and green research.

One of Trump's weekly addresses

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earlier this year focused on NASA, complete with awe-inspiring music and video, and in April the president held a video conference with two astronauts on the International Space Station.

Space clearly isn't a top priority for a president primarily focused on the economy and immigration. He hasn't named a new NASA administrator yet. Robert Lightfoot is the acting head, after serving as associate administrator during the Obama administration. The Trump budget keeps NASA funding stagnant—actually, a few hundred million less. But it includes sweeping cuts to nearly every other nondefense discretionary program, even phasing out some. The cuts in the NASA budget, moreover, are almost entirely in earth science, or climate change research.

The president has shown rhetorical affection for NASA, which Obama often neglected. Considering that talk is paramount for both

presidents, that means something.

President Trump has signed two NASA-related bills. First, a \$19.5 billion appropriations bill for NASA for the remainder of fiscal 2017. Trump's fiscal 2018 budget proposal only reduced proposed NASA funding to \$19.1 billion. The day before mentioning space exploration in his address to Congress, Trump signed the Inspiring the Next Space Pioneers, Innovators, Researchers, and Explorers (INSPIRE) Women Act. The law directs NASA to encourage women and girls to seek education and work opportunities in science, technology, engineering, and math, known as STEM fields.

During his April video conference with astronauts, Trump talked up private investment in space—which is the only long-term sustainable path for the program: "I have many friends that are so excited about space. They want to get involved in space from the standpoint of entrepreneurship and business." Trump praised Commander Peggy Whitson for setting a record for the most time spent by an American in space. Then, shifting to the CEO's habit of looking at the bottom line, inquired, "What are we learning by being in space?"

Whitson, joined by Colonel Jack Fischer, offered examples of studies to make oxygen last for longer flight durations in preparation for a mission to Mars in the 2030s and space-based research on medicines for treating muscular dystrophy and Alzheimer's back on earth. The president responded with Trumpspeak: "That's fantastic. That is really great. I saw some of the work, and it's incredible. You know, I've been dealing with politicians so much, I'm so much more impressed with these people. You have no idea."

It seems space is another area in which Trump wants to see America win again.

With all this activity, legislative and rhetorical, "this administration has been one of the most active on space in the first 100 days," said NASA spokeswoman Jen Rae Wang.

NASA faced a rocky time during

NEWS.COM

the Obama years. Obama's NASA administrator Charles Bolden said the president charged him with three priorities: First, inspire children to study science and math; second, expand international relationships; and third, reach out to the Muslim world to "help them feel good" about their contributions to science, math, and engineering. This seemed to signal space flight and exploration were no higher than fourth.

The NASA Review of U.S. Human Space Flight Plans Committee's 2009 report asserted, "The U.S. human spaceflight program appears to be on an unsustainable trajectory. . . . Space operations are among the most demanding and unforgiving pursuits ever undertaken by humans. It really *is* rocket science. Space operations become all the more difficult when means do not match aspirations."

Climate change was another high priority, causing some angst among NASA alumni. In April 2012, 7 Apollo astronauts and 2 former

directors of the Johnson Space Center in Houston were among the 49 former astronauts and NASA scientists who signed a letter stating the agency's involvement in the global warming debate "is unbecoming of NASA's history of making an objective assessment of all available scientific data prior to making decisions or public statements."

That's likely to change, said Rep. Lamar Smith (R-Texas), chairman of the House Science, Space, and Technology Committee. "Over the last eight years, the Obama administration disproportionately increased favored programs to the detriment of others," Smith said. "Earth science funding requests went from \$1.198 billion for 2007 to \$2.032 billion for 2017, while funding for planetary science and human exploration were strangled. Going forward, it appears as though Congress and the president agree that a balanced NASA is a priority."

It was also under Obama that

America—which won the space race during the Cold War—became reliant on Russia to send an astronaut to the International Space Station after NASA's storied—but very expensive—shuttle program came to an end. Earlier this year, NASA agreed to pay \$373 million for Russia to launch American astronauts into space through 2019. However, the \$19.5 billion appropriation bill Trump signed requires NASA to develop domestic crew transportation as quickly as it's safely possible.

"Boeing and SpaceX, the commercial crew contractors, are currently scheduled to launch in late 2018 or early 2019," Smith said. "Moreover, the bill prohibits the use of foreign services if a domestic capability exists. This will ensure that American astronauts once again launch on American rockets from American soil."

NASA will be buying rides from the private sector, said Stephen Fleming, vice president for strategic

## Protecting the Right to Take a Risk

**THOMAS J. DONOHUE**

PRESIDENT AND CEO  
U.S. CHAMBER OF COMMERCE

As Americans joined with family and friends to celebrate the 4th of July last week, we had an opportunity to set aside our divisions and focus on those things that unite us and set our nation apart. Among those are the principles of free enterprise that have allowed America to become the most dynamic, prosperous, innovative, and opportunity-rich economy on the planet. It's up to all of us to ensure that those principles not only survive but thrive.

One of the foundations of our free enterprise system is the right to take a risk, start a business, fail, and try again. This right has enabled millions of Americans to build their own success stories from the ground up. It has allowed them to pursue a dream, taste the thrill of achievement, and feel proud that

they did it through their own pluck and hard work. And when there are failures along the way, they make eventual success and achievement that much sweeter.

The right to risk, fail, and try again underpins American innovation. When anyone—from a parent working out of her spare bedroom to a college student in his dorm room to an immigrant with a big idea—can take a risk and launch a business, the result is widespread creativity and a constant churn of good ideas rising to the top. It keeps established businesses on their toes and capital flowing into our communities. It also leads to jobs and economic growth—not to mention cutting-edge products and services for consumers.

Unfortunately, the right to take a risk is itself at risk. It has been undermined by a government that interferes too readily and too often in the marketplace, distorting the forces of choice and competition

that must drive a free and fair economy. When government tips the scales against new competitors in favor of established players or enacts laws and regulations that raise barriers to entry, it deters new entrants into a field.

The U.S. Chamber of Commerce has made it our mission to support and defend the principles that underlie our free enterprise economy, including the right to take a risk. If America is to remain prosperous, we need to encourage all our playmakers to take the field and try their hand at success. Our free enterprise system must be an arena where all Americans have a chance to try and try again. The Chamber looks forward to keeping up the fight on behalf of that system in the months and years to come.



Learn more at  
[uschamber.com/abovethefold](http://uschamber.com/abovethefold).



business initiatives at the University of Arizona. “We pay Russia \$60 million per person. The private sector can do it for \$6 million,” said Fleming, a former venture capitalist who focused on space opportunities.

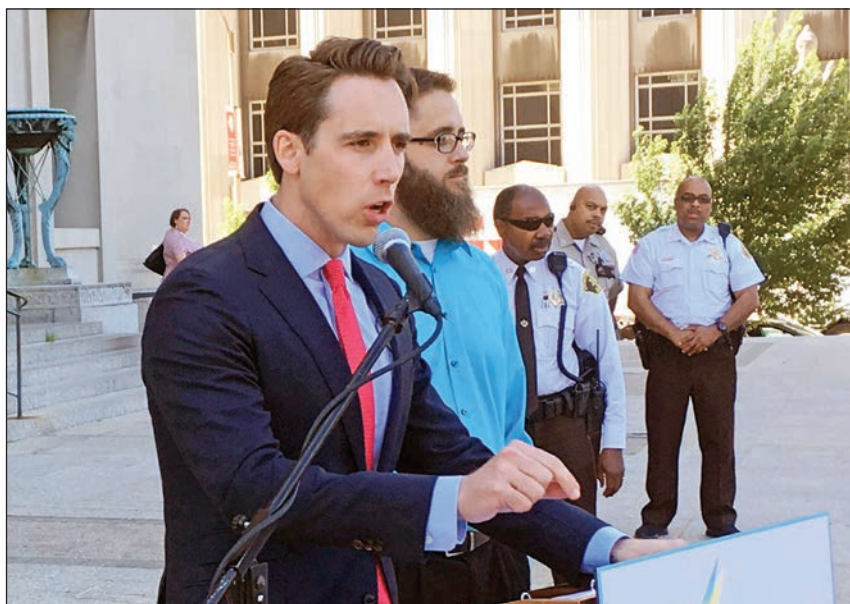
It’s still too early to assess Trump’s absolute commitment to space, but Fleming said he is heartened by the rhetoric. “He seems to have more of an understanding that NASA is a priceless national asset and wants to focus on doing things that only NASA can do.”

The private sector is key to weaning off dependence on Russia, Fleming said, adding investors took a “40-year detour” from space exploration because there was little return on investment to encourage the private sector to build on the technology of the ’60s and ’70s. That’s no longer the case, he said, as key players such as SpaceX, owned by Elon Musk, and Blue Origin, owned by Amazon’s Jeff Bezos, are seeking to cash in.

A Goldman Sachs report issued in April predicts space will be “a multi-trillion-dollar market within the next two decades.” The report says the satellite industry will expand, and forecasts new industries such as “space tourism, asteroid mining, and on-orbit manufacturing” springing up. Asteroid mining alone could vastly reduce the price of rocket fuel and solve many energy needs back home. “Exploration used to be the domain of governments, but is increasingly being privatized,” the report says.

Trump is excited about the budding commercial space flight industry, and wants to encourage competition and innovation in that area, a White House spokesman said. About 75 percent of space sector private investment since 2000 happened in the last five years, which includes eight startups in space. More than 50 venture capital firms invested in space in 2015, more than the 15 preceding years combined, the Goldman report says.

“When your neighbor’s son is working in space, that’s when people will take notice,” Fleming said. “We’ll start seeing a lot of blue-collar jobs in space.” ♦



*Josh Hawley speaks at a news conference in St. Louis, June 21, 2017.*

# Missouri's Political Phenom

Why so many Republicans want Josh Hawley to run for the Senate. **BY FRED BARNES**

Josh Hawley is a rarity in politics. Elected attorney general of Missouri last November, he’s held that office for five months. Yet he’s already under extraordinary pressure from Republicans to run for the Senate in 2018.

Senate majority leader Mitch McConnell and Missouri senator Roy Blunt have made it known they’re eager for him to run. And though Hawley is a conservative, leaders of the party’s moderate wing—notably former senator John Danforth and GOP donor Sam Fox—have publicly called on him to enter the Senate race.

There’s little doubt among Republican leaders that Hawley would have the best chance of ousting Democrat

Claire McCaskill next year. He’s young (37) and brainy (Stanford, Yale), has deep Missouri roots, and is married with two young kids. He and his wife Erin are lawyers who met when they clerked for Chief Justice John Roberts.

What catapulted Hawley to prominence was the magnitude of his victory in the AG race last year. Missouri was a strong Trump state, and down-ticket candidates don’t usually lead the field. But Hawley outpolled Trump, 61 percent to 56.4 percent.

This spring, a draft-Josh movement broke out, led by Danforth and Fox. In an open letter, they praised Hawley for an “impressive start” as attorney general and for his “commitment to excellent service in that important office.” Nonetheless, they urged him to challenge McCaskill.

*Fred Barnes is an executive editor at THE WEEKLY STANDARD.*

JIM SALTER / AP

Last week, the movement got a big boost when Rep. Ann Wagner decided not to run for the Senate. She had been regarded as likely to win the GOP primary and be a competitive candidate against McCaskill.

Hawley could have squelched the draft campaign by declaring he would not jump into the Senate race. But he merely said he was focused on his work as AG. Now he will have to decide. Given the pressure and with Wagner out, Hawley is considered likely to run.

Assuming he does, he'll have distinct advantages. For one thing, Missouri is still a good state for Trump. With Hawley on board, "you start with a burst of enthusiasm," says Steven Law, the president of American Crossroads, which supports Republican candidates. "The race becomes much more winnable."

Defeating McCaskill would help Republicans retain control of the Senate. They currently have a 52-48 edge. That leaves little margin for error, especially in a midterm election that normally favors the party that doesn't hold the White House.

This is important to McConnell not merely because he would remain as majority leader. It would allow Republicans to continue approving conservatives to the federal courts, a goal he and Trump agree on.

With the entire Republican infrastructure behind Hawley, the primary field may be cleared for him. "The highest priority we have is to pick up the Senate seat," says state GOP chairman Todd Graves. "Josh is a formidable candidate and a rising star in Missouri politics."

Hawley also has national connections. He's been a major figure in the Federalist Society, the influential organization of conservative lawyers. And he's well-known among social conservatives. He's an ally of Republican state AGs across the country. He also worked as an attorney for the Becket Fund, which defends religious liberty.

If he runs for the Senate, he's sure to be attacked for skipping out early as attorney general. His major initiative has been a lawsuit against three

pharmaceutical firms for practices that led to an opioid epidemic in Missouri. He'll be accused of being a politician who is always looking for higher office to seek—a phenomenon he's criticized.

McCaskill won reelection easily in 2012 against Republican Todd Akin, who got enmeshed in a controversy

**With the entire Republican infrastructure behind Hawley, the primary field may be cleared for him. 'The highest priority we have is to pick up the Senate seat,' says state GOP chairman Todd Graves. 'Josh is a formidable candidate and a rising star in Missouri politics.'**

over his notion of "legitimate rape." In effect, she picked her opponent. She and then-Senate majority leader Harry Reid ran TV ads in the GOP primary backing Akin, helping Akin defeat two rivals who might have been more formidable opponents in the general election.

Hawley is a far bigger threat to McCaskill than Wagner would in all likelihood have been. McCaskill is

"listing badly," Law says, referring to her weak poll numbers. Hawley's are far better. Though he's quite conservative, "he plays to a broader audience," Law says.

Should he run and win, Hawley would be another example of the AG's office serving as a political launching pad. Greg Abbott, the Texas attorney general, led the way when he was elected governor in 2014.

He was followed this year by Scott Pruitt, the former Oklahoma AG whom Trump installed as head of the Environmental Protection Agency. Luther Strange, twice elected as Alabama AG, was appointed to fill the Senate seat of Jeff Sessions, now U.S. attorney general.

In 2018, there are almost sure to be more. Adam Laxalt, attorney general of Nevada, is considering running for governor. And in West Virginia, AG Patrick Morrisey may seek the Senate seat of Democrat Joe Manchin.

Hawley's background is similar to Arkansas senator Tom Cotton's. Both grew up in rural towns. Hawley's father was a banker in Lexington, Missouri, population 4,700. Both are Ivy League-educated. Both are lawyers. Both are married with young children. A Republican operative cited two differences. Cotton was a combat infantry officer in Iraq and Afghanistan, the Republican says, but Hawley "is nicer." ♦







# The Immigration Frontlines

*Seven hours in Riverside tracking down ‘bad hombres’*

ICE officers arrive at a house in Riverside County, California, where they are looking for a 24-year-old Mexican national who was deported in 2011 and has been arrested four times since 2014 for assault with a deadly weapon. He was released by the Riverside County jail.

By TONY MECIA

*Jurupa Valley, Calif.*

It's 3:45 A.M., and the cars have started turning into an Ace Hardware parking lot, in a sparse commercial zone by one of the area's many highways. The drivers park, get out, and open their trunks. They slip on bulletproof vests, holster Glock 26 pistols, and ready the batons and handcuffs.

Two Immigration and Customs Enforcement (ICE) fugitive operations teams, about a dozen officers, are getting ready for a day of tracking down illegal immigrants. The targets are all in Riverside County, an hour east of Los Angeles. They are not the worst of the worst, but they are eligible for deportation because of their criminal histories: felony spousal abuse, assault with a deadly weapon, drug trafficking. Five of the subjects are Mexican; one is Lebanese.

Just after 4 A.M. on this Thursday in mid-June, as floodlights illuminate their silhouettes and cast shadows from nearby potted plants and bags of soil, the teams review the suspects and the plan of action. Standing in a circle, with some using flashlights to see the papers

before them, the officers take turns discussing how each arrest will go down. Surveillance teams have already staked out residences and sought out chatty neighbors to figure out each target's patterns. One heads off to work daily at 7:30 A.M., always stopping at a Chevron gas station near his house for coffee. Another comes home from an overnight shift every morning right at 8:40. The ICE teams prefer traffic stops, where the targets are easily controlled. They are safer. But some of today's marks require a "knock and talk"—for officers to walk right up to the suspect's door and ask to speak to them.

"If things go south on us and we have a medical emergency, there's Loma Linda," one of the leaders tells the assembled teams, referring to a university medical center 25 minutes to the east. "They have a trauma center," he says. "Remember, this area is gang-infiltrated."

The Riverside County Sheriff's Department has a station just a block away from where we are standing. Over the next seven hours, though, ICE officers will conduct surveillance, question and arrest people, pull over cars, and search houses entirely on their own, without the assistance of Riverside or any other local police force.

That's the way it goes with immigration enforcement in California these days. Many of the most pressing

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ALL PHOTOGRAPHS: TONY MECIA / THE WEEKLY STANDARD

crimes in the United States—terrorism, gangs, and drugs—are fought in tandem by federal and local law enforcement. On immigration, counties and states nationwide are increasingly backing away from what has traditionally been their part of the bargain. Some cities are calling themselves “sanctuaries” in opposition to the policies of the Trump administration, but more and more even those that don’t use the moniker are directing their police not to cooperate with ICE.

Contrary to the way they are portrayed by critics, sanctuary cities are not rogue jurisdictions brazenly flouting federal law. Instead, in an approach blessed by federal judges, they are exercising policy judgments about whether their jailers will hang onto prisoners so ICE can collect them or even communicate with ICE at all. They have decided that their residents are best served by building trust with local police and keeping immigrant families intact. With no sign of comprehensive immigration reform coming out of Washington, sanctuary cities are taking matters into their own hands and slowing down deportations.

Making federal law enforcement less efficient has consequences, though. It means fewer criminals are deported to their home countries. It places ICE officers in riskier situations, because they have to encounter criminals at their houses instead of collecting them from jails. And it distorts who stays in the country and who goes. That’s because when tracking illegal immigrants with criminal records, ICE officers often encounter that person’s relatives and friends, who’ve done nothing wrong but come to America illegally. And they often are the ones who wind up being deported instead.

## THE SANCTUARY MOVEMENT

Nowhere are tensions higher than in Southern California. The area was settled by the Spanish. It belonged to Mexico until 1848. Los Angeles has long served as a magnet for people from Central and South America. Today, some 45 percent of the 19.1 million people in the greater Los Angeles area identify as Hispanic or Latino. In that same region live an estimated 1.4 million undocumented immigrants.

As cities are working to accommodate illegal immigrants, the Trump administration is working to deport them. This is part of a larger federal effort to highlight and combat the damage caused by illegal immigration. The most prominent aspect is Trump’s call to build a wall along

the Mexican border, but his policies also include stepped-up efforts to police those who have managed to get across and live here. He has promised to crack down on sanctuary cities and to strip them of federal funding. Congress is getting in on the fight, too: In late June the House passed “Kate’s Law,” named after one of the most prominent victims of illegal-immigrant crime, to try to force sanctuary cities to become more helpful in enforcing immigration law.

The sanctuary movement traces its roots to the Cold War. In the early 1980s, civil wars in El Salvador and Guatemala pitted military dictatorships backed by the Reagan administration against Marxist guerrillas supported by the Soviet Union. Hundreds of thousands of Central Americans streamed across the U.S. southern border, many illegally, in search of peace and prosperity.

A network of churches in California, Arizona, and Texas rose up to shelter the new arrivals, who were subject to round-ups by local sheriffs. These advocates saw themselves as a latter-day Underground Railroad, helping shepherd the needy to safety and support. Some felt a further kinship with the Catholic priests in Central America who followed liberation theology and bore the persecution of the dictatorships. Others drew inspiration from the Old Testament books of Numbers and Deuteronomy, which described ancient Israeli “cities of refuge”

where people could flee to avoid retribution.

With its large immigrant population, Los Angeles was among the first cities in the country to lay down policies to build trust between police and undocumented migrants. Special Order 40, signed in 1979, prohibited the LAPD from stopping people “with the objective of discovering the alien status of a person.” Officers were directed not to charge people with violating U.S. immigration law, but simply to notify federal officials if an undocumented alien was being arrested for a serious misdemeanor or a felony.

In 1994, 59 percent of California voters approved Proposition 187, a measure that, among other provisions designed to discourage illegal immigration, required local law enforcement to determine if *anyone* arrested was in the country illegally and, if so, report them to federal immigration authorities. Activists sued and blocked implementation of the law. After years of litigation, a federal judge struck it down in 1997, declaring, “California is powerless to enact its own legislative scheme to regulate

**With no sign of comprehensive immigration reform coming out of Washington, sanctuary cities are taking matters into their own hands and slowing down deportations—meaning fewer criminals are deported to their home countries. This places ICE officers in riskier situations, because they have to encounter criminals at their houses instead of collecting them from jails.**



immigration.” A lawyer with the Mexican American Legal Defense Fund enthused: “The judge has vindicated the principle that we can’t have 50 immigration policies, we can only have one.”

Today such activists, in the face of an administration that wants more robust enforcement, have soured on the idea that the federal government reigns supreme on immigration. There are 382 metropolitan areas in the United States, and sanctuary city advocates would have as many different policies bloom.

“A complete flip,” says Dan Lungren, a former Republican congressman from California who served as the state’s attorney general in the 1990s. “We were complain-



*Pulling his truck over as he heads to work, ICE agents arrest a 51-year-old Mexican native who was convicted of drug charges and previously deported.*

ing that the federal government was not fulfilling its responsibility to pick up these people, who had committed crimes in our country. They refused to take action to pick them up and deport them.”

While some cities have had sanctuary policies for decades, the number of such cities began rising in the early years of the Obama administration. Deportations were increasing as improving technology allowed federal immigration authorities to target illegal immigrants. Cities with large immigrant populations reacted with alarm and took steps to try to reassure their residents that local police could be trusted to work with crime victims regardless of immigration status.

In the Los Angeles area, there are numerous projects underway to lend support to illegal immigrants: The city of Los Angeles and Los Angeles County are chipping a

combined \$5 million into a legal defense fund to provide lawyers for those facing deportation proceedings. Interfaith leaders are assembling networks of “safe houses,” and activist groups are trying to teach undocumented immigrants about their rights.

Today, the federal government is eager to deport criminals. President Trump speaks regularly about the “bad hombres” and “bad dudes” who are here illegally and must be sent back to their countries. Nationally, ICE arrests are up about 40 percent this year compared with a year ago. In the Los Angeles area, though, they are flat.

## FUGITIVE OPERATIONS

The ICE teams head out of the Ace Hardware parking lot a little before 5 A.M. in a caravan of unmarked American-made SUVs with tinted windows. The Los Angeles ICE office hunts for illegal immigrants like this every day. Its nine fugitive operations teams cover seven counties. ICE doesn’t like calling these activities “raids” or “sweeps,” as those terms sound as though agents are indiscriminately rounding people up. It prefers “targeted operations,” which emphasizes that these are precise efforts aimed at particular undocumented immigrants with criminal histories. In 2017, 91 percent of those arrested by ICE in the area had criminal convictions, and ICE insists that it targets only criminals.

This morning’s activities are unusual because two teams are combining efforts and have been joined by two of the L.A. office’s department heads. Seven members of the media are tagging along, and ICE wants to ensure there’s enough manpower for safety. Four journalists from the *New York Times* are riding in one car; a reporter and photographer from the *Riverside Press-Enterprise* along with your trusty correspondent are in another.

The day’s first target, or “tango” in law-enforcement jargon, is Anselmo Moran Lucero, 51, a Mexican national who was deported in 2007 after serving a six-month sentence for felony spousal abuse. He re-entered the country at some point, and in July 2014 was arrested for domestic violence in nearby Orange County, ICE told us. Those charges were dropped, and he was released.

Like many of the subjects hunted by these ICE teams, Lucero might not be on the streets at all if the local sheriff’s office had been more cooperative. The way ICE sees it, Lucero should have been re-deported in 2014, when he was arrested in Orange County. ICE flagged Lucero when the arrest went out across law-enforcement databases and says it notified the sheriff to hold Lucero until agents could arrive to take him into custody. That request is called a “detainer.” The best measure of whether a jurisdiction is a sanctuary city is not what it calls itself, but how it handles detainer requests from ICE.

## FEDERAL IMMIGRATION DETAINERS

Whenever anybody is arrested anywhere in the United States, his or her fingerprints are matched against those in federal databases like the FBI's National Crime Information Center. One is US-VISIT, which tracks foreign nationals entering or leaving the country, and which an ICE center just outside Burlington, Vt., uses to check every arrestee.

If a suspect has had any previous encounters with Border Patrol, ICE, or similar agencies, the Vermont center relays that information electronically to the arresting agency as well as to ICE's office in the area, often in a matter of minutes. In Lucero's case, that US-VISIT review showed he had previously been deported.

For arrests in the Los Angeles area, any US-VISIT hits arrive at ICE's Pacific Enforcement Response Center in Laguna Niguel, about an hour south of Los Angeles. There, inside a federal building that resembles a large yellow Mayan temple, analysts process immigration information around the clock for most of California (as well as for 41 other states and the District of Columbia). Last year, the center processed about 300,000 cases that were flagged in Vermont—about one-third of the national volume. It is ICE's largest such center in the United States. The work is cyclical. The busiest times tend to be weekends and in the summer, when more people are arrested than in the other seasons.

Working in rows of cubicles, analysts scour federal databases for any information on the person apprehended. If the subject does not raise any flags—say, if he has no prior verified border crossings or deportations—then ICE would not know his immigration status and would do nothing. If the person shows up in a database but is a U.S. citizen, then ICE would also do nothing. But if ICE determines that the prisoner is here illegally, then the center in Laguna Niguel sends a detainer request to the jail where the immigrant was processed. The detainer asks the jail to hold the prisoner for an additional 48 hours until ICE can show up, or if it won't do that, to at least notify ICE when the release of the prisoner is pending.

From there, the onus falls on the local jail to follow up with ICE to arrange the transfer of the prisoner. Often, especially in the Los Angeles area, local law enforcement ignores the request.

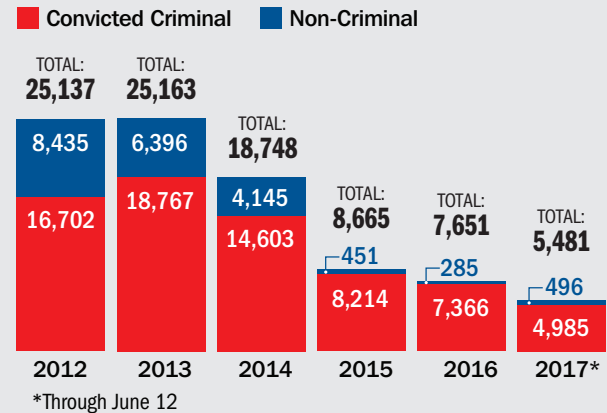
Detainers aren't binding because nothing in federal law requires them to be. The closest federal statute says that federal, state, or local governments "may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual." Nothing obligates local police to hold prisoners suspected of immigration violations or even to respond to

ICE requests for information. The language of the statute, which was part of the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, seems to say only that local officials cannot be prohibited from communicating with ICE.

"It's not entirely clear to me that the statute as written applies to the situation we have," says Josh Blackman, a professor at South Texas College of Law and an adjunct scholar with the Cato Institute. "The cities are simply not replying to a detainer." He says the meaning of the law has never been litigated. Even if a tougher or clearer federal law existed, Blackman says it's uncertain if it would be constitutional because "there is a general doctrine that says the federal government can't force local police officials to do their bidding."

### The Crackdown That Wasn't

Immigration arrests by the Los Angeles field office of Immigration and Customs Enforcement, by fiscal year



What this means is that in different places around the country, local officials handle ICE detainer requests differently. Thomas Giles, the deputy field office director in L.A., moved here from Phoenix in March and says that the biggest difference is "some of the jurisdictions don't honor our detainers."

In an effort to shame uncooperative jurisdictions, the Trump administration in March started publishing the names of communities that failed to honor detainer requests along with details of the crimes committed by the felons who the local police declined to hold for ICE. It halted the effort after three weeks because the first three reports were filled with errors.

### THE LEGAL LIABILITY

There are several reasons why police might release a prisoner sought by ICE: local laws or policies, fear of lawsuits, and mix-ups. In the Los Angeles area, the main reason is a California law that took effect in



January 2014 and bars jails from holding prisoners for ICE beyond their normal release dates unless they have been charged with or previously convicted of a major crime. Jailers can still tell ICE that they are about to release a prisoner, but that could also soon be barred in California: A much more severe bill working its way through the state legislature would prohibit jails from sharing even the most basic prisoner information “for immigration enforcement purposes.”

Cities and counties are also increasingly fearful of legal liability. Many sheriffs point to a 2012 case in Portland, Ore., stemming from an ICE detainer. Maria Miranda-Oli-



*Those arrested in ICE operations this morning in mid-June are taken to a processing center in San Bernardino. If they were previously deported, they could be returned to Mexico in a day or two.*

vares had been arrested for violating a domestic-violence restraining order. Instead of releasing her after she posted \$500 bail, the Clackamas County jail held her for two additional weeks until her case was resolved, then handed her over to ICE to begin deportation proceedings—exactly the way ICE thinks the process should work. But the woman, described in press reports as an undocumented immigrant from Mexico with two U.S.-born children, sued for false imprisonment. Her lawyer told the *Oregonian* that during her confinement she experienced a “mental health crisis and suicidal thoughts, she was locked up in a cold, dirty isolation cell [and] her anti-depressant medications were withheld for several days.”

A judge ruled in her favor in April 2014, and

Miranda-Olivares got a \$30,100 settlement from the county, plus attorneys’ fees. Her lawyer had been provided by the Oregon Law Center, a legal aid organization whose mission is to “achieve justice for the low-income communities of Oregon.” Its sources of funding include an annual \$400,000 grant from the federal Department of Health and Human Services and donations from the Lawyers’ Campaign for Equal Justice, a legal-aid group supported by major Oregon law firms, banks, and corporations (among them Nike). Three weeks after the judge’s favorable ruling, the American Civil Liberties Union sent letters to all 58 counties in California highlighting the case.

The increased litigation, the activism, and the political interventions reflect an emerging public understanding of the immigration enforcement process. “More people are engaged,” says Royce Murray, policy director with the American Immigration Council, a research and policy organization that advocates for undocumented immigrants. “There was a long while where people inside and outside the government either took for granted how this should work because it has always worked this way, or they didn’t understand it. There is a new awareness of how these pieces come together.”

It’s unclear why Lucero was allowed to walk out of the Orange County jail in 2014. Orange County is generally one of the most cooperative in California in helping ICE agents identify the immigration status of people in its jails. It participates in the federal government’s 287(g) program, which allows jailers to double as immigration enforcement agents, and it has a good record of communicating with ICE. Its sheriff is outspoken in her opposition to the proposed California law that would further restrict communications with ICE.

Still, Orange County is bound by California law. Even when its police want ICE to come pick somebody up, ICE officers can’t always get there in time. “When the release date comes up for inmates with a detainer, we have to release them,” says Lt. Lane Lagaret, spokesman for the Orange County Sheriff’s Department. “We cannot hold them past their release dates, and if ICE doesn’t come to pick them up, they are let out the front door. It’s frustrating to release someone you know should not be getting released, but we have to comply with the law.”

## THE MURDER OF KATE STEINLE

When counties change their policies, adapt to shifting laws and legal landscapes, and fail to honor ICE detainer requests, the system can break down. There can be tragic results. Consider the case of Kate Steinle, 32, who was walking in San Francisco’s Embarcadero district when she was shot and killed. The man charged with the crime, Juan Francisco

Lopez-Sanchez, was an illegal immigrant and repeat felon who had been deported to Mexico five times.

In March 2015, Lopez-Sanchez was finishing a four-year federal prison sentence in Los Angeles for illegally entering the country. ICE had lodged a detainer, seeking custody of him upon release. But San Francisco also wanted Lopez-Sanchez, on an outstanding felony warrant for selling marijuana, and he was transferred there. The next day, ICE sent a detainer request to San Francisco. But when the drug charges were dropped a few weeks later, San Francisco released Lopez-Sanchez without notifying ICE. The release seems to have been in response to a directive from the San Francisco sheriff, who wrote in a March 2015 department-wide memo that staff should not share inmate release dates and times with ICE representatives. The sheriff said he was merely following the city's "Due Process for All Ordinance," passed unanimously by the city's board of supervisors in 2013, that sought to limit cooperation with ICE. He also said ICE should have sought a judicial warrant to arrest Lopez-Sanchez, which would have had the force of law behind it and that his department would have honored. (ICE does seek criminal judicial warrants in some cases but says the process takes time thanks to the need to compile paperwork and coordinate with prosecutors.)

A little over two months later, court documents allege, Lopez-Sanchez stole a loaded .40-caliber SIG Sauer handgun from a park ranger's vehicle. On July 1, 2015, as Steinle walked by the waterfront near Pier 14 of the Embarcadero, Lopez-Sanchez shot her in the chest, piercing her aorta. He later said he had taken sleeping pills and recalls few details. A wrongful death suit filed by the family describes Steinle's last moments: Her father "held her as she fought for her life and begged for his help, crying, 'Help me, Daddy!' with her last words." She died two hours later at San Francisco General Hospital.

## TANGO ONE

**T**he Steinle case was cited repeatedly by Donald Trump during the presidential campaign. It is the highest-profile example of the horrific outcomes that are possible when local jails deny detainer requests. Of course, many people who walk out of jail despite being sought by immigration authorities go on to do nothing wrong. Such is the case of Anselmo Moran Lucero. ICE

has no record that he has had any encounters with law enforcement since Orange County released him in 2014.

For Lucero, though, his luck ran out in mid-June, when ICE went looking for him in Riverside County. ICE would not say precisely how Lucero landed on their radar, other than to say they have a team that is constantly looking for signs that those previously deported are back in the country. Over the previous few days, ICE officers watched what they thought was his house, confirmed his presence, and predicted that he would be there early in the morning.

As our caravan heads toward his house at about 5:30 A.M., there's a hitch: Officers already on the scene have pulled over a car leaving his house, and Lucero wasn't in it. The driver told them that Lucero, instead of being at the house as agents suspected, had ventured to a casino on a late-night trip and not yet returned. Agents fear the driver will tip off Lucero that the authorities are after him. Nonetheless, they stake out the house and wait.

We, instead, head across town toward the second target: a 24-year-old Mexican who was deported in 2011 following a drunk-driving arrest. He returned to the United States and has been arrested four times since 2014, all for assault with a deadly weapon. With at least one of those arrests, ICE says it lodged a detainer, which was not honored. The plan is to do a "knock and talk," because ICE believes the subject will be asleep in the house.

At precisely 6 A.M., officers pull up to a one-story white wood house in a run-down neighborhood off a busy street. A chain-link fence closes off the front yard. Dogs are barking. Roosters crow in a neighbor's yard. The darkness is giving way to an orange haze as the sun starts to push over the horizon.

ICE agents can't enter a house or an enclosed yard without permission. After a few minutes of the dogs barking, a middle-aged Hispanic woman opens the door and sees a half-dozen agents wearing vests that say "POLICE" across her fence. She sighs, pulls her brown hair into a ponytail, puts her hands on her hips, and then walks slowly, barefoot, through the dirt, toward the fence.

A female ICE agent yells questions at her: "*¿Quién vive aquí? ¿Cuántos?*" Who lives here? How many?

They speak for a moment, then the woman returns inside. A few minutes later, a man comes out the front

**A California law that took effect in January 2014 bars jails from holding prisoners for ICE beyond their normal release dates unless they have been charged with or previously convicted of a major crime. Jailers can still tell ICE that they are about to release a prisoner, but a much more severe bill working its way through the state legislature would prohibit jails from sharing even the most basic prisoner information 'for immigration enforcement purposes.'**



door, looking groggy. He's in his forties, with dark close-cropped hair and a beard and is wearing only a pair of gym shorts. His name is Fidel Delgado Guerrero, and he's some 20 years older than the man officers are seeking.

He talks to the ICE agents. After some discussion, he opens the gate. He's allowing them to search the house.

Delgado might not know it, but people are not required to allow ICE agents onto their property. Unlike police serving an arrest warrant, who can enter houses to search for subjects without permission, ICE officers must rely on the residents' cooperation. Immigrant-rights groups have been trying to spread the word that if ICE comes knocking, just don't answer the door.

As the agents enter the house, others take positions in the front yard and to the sides. Some 15 minutes later, officers have found no sign of the 24-year-old they are seeking, whom they believe is Delgado's son. He tells them his son moved to Texas a year ago. It's not clear that officers believe him, because they have information placing the younger man at the house earlier in the week, and the son's most recent arrest was in August 2016 in Riverside. Also in the house is a 16-year-old boy, another son.

With no sign of their suspect, officers check the backgrounds of the people who are there. A process that used to be cumbersome is now almost instantaneous. They use an iPhone, a Bluetooth-connected fingerprint scanner and an app called EDDIE. It sends biometric data to be compared against federal databases. ICE says that information shows that Delgado and his wife were caught in 2008 trying to cross the border twice in a 24-hour period near El Paso, Texas. They were sent back to Mexico both times. Beyond that, they have had no other brushes with law enforcement.

If the Kate Steinle case is the emotional incident favored by opponents of sanctuary cities, then people such as Delgado and his wife—avoiding trouble, raising a family—are examples of what immigration-rights groups see as overzealous enforcement. During the Obama administration, it is possible that the couple would have avoided arrest as a matter of policy, because enforcement priorities tilted toward those with criminal convictions and those who came over the border recently. In 2015 and 2016, just 5 percent of 16,316 people arrested by ICE's Los Angeles field office had no criminal convictions. The Trump administration has largely rescinded those guidelines and leaves decisions on cases like the Delgados' to the officers

in the field. This year, the figure has risen to 9 percent.

Another way to look at the Delgado example is to note that ICE officers wouldn't even be at his house had the local jail honored the detainer on the 24-year-old being sought. ICE would have deported their target and been somewhere else this morning, instead of rousing Delgado, his wife, and younger son from their sleep.

Although ICE could arrest Delgado and his wife, the presence of the 16-year-old boy creates a problem. By law, they can't leave him by himself. Instead, officers decide to arrest just Delgado and follow up later with his wife. They let him put on jeans and a shirt, handcuff him, and lead him across the street into the back of a Dodge Grand Caravan. A half-mile away, to avoid any crowds that might form at his

house, officers take Delgado out of the van, search him thoroughly, attach a waist chain, and remove his belt.

David Marin, a former marine who is the head of enforcement and removal operations for ICE's L.A. field office and is one of the two agents media are allowed to identify from this ride-along, explains the decision to take Delgado into custody: "Both have been previously deported. This is somebody who shouldn't be in the country," he says. "We explained to him, 'You have no right to be here. You'll have to come with us.' And he asked, 'What about my wife?'"

### THREE FOR THREE

As they are getting ready to leave the Delgado home, ICE agents receive some good news. Lucero, their first "tango," came back from the casino. Officers waiting by his house spotted him, pulled him over in his car, and arrested him.

The third target this morning is a 51-year-old Mexican national who used to be a legal U.S. resident but was convicted on drug charges in 1998 and deported. ICE records show he was deported a second time in 2012, following another arrest on drug-trafficking charges. He tried to re-cross the border in 2013 but was caught and sent back for a third time.

ICE believes the man's routine is to leave for work every morning at 7:30 and stop for a cup of coffee at the Subway sandwich shop attached to a Chevron station a mile away on Center Street. The plan is to pull over his vehicle, believed to be a Chevy or Toyota pickup, before he stops for coffee.

The two media vehicles wait about a block away from

**If the Kate Steinle case is the emotional incident favored by opponents of sanctuary cities, then people such as Fidel Delgado and his wife—avoiding trouble, raising a family—are examples of what immigration-rights groups see as overzealous enforcement. During the Obama administration, it is possible that the couple would have avoided arrest as a matter of policy.**

the house, and a description of the action comes over the radio at 7:44 A.M.:

*We have movement and visual on the target.*

*It looks like the subject put an ice chest in the back of the truck and went back inside.*

*I've got eyes on the truck. I'm behind it. I'm on Walker heading toward Center.*

*Vehicle is about to make a right on Center.*

*10-4, we're moving.*

*I'm behind the vehicle. I will execute right now.*

By the time we arrive, agents have handcuffed a man with black hair and a thick black moustache. He's telling officers that the truck is not his, and he only wants to return the keys to the owner.

To search him more thoroughly, they take him to a parking lot down the road, which happens to be the same place the man stops for his morning coffee. Three Subway workers look out the window at the commotion.

Nora Kilgore, a Latina who works at the adjacent Herbalife store, comes outside to take a look, too. She says she's surprised at the presence of ICE officers. "Immigration? It's immigration?" she says. "Are they going to come for me? I don't have my papers." She says she's joking and adds that she hasn't seen immigration arrests around here before. "I guess they gotta do what they gotta do," she says.

That's the action for the day, at least for the media tag-alongs. Agents targeted a fourth subject, a 28-year-old Mexican national with a felony drug conviction and a drunk-driving arrest, but he never came home. While we were waiting for him, ICE nabbed target number five, a 46-year-old Kuwaiti-born Lebanese national with nine convictions, including six felonies. Officers watching his home in a trailer park spotted his vehicle leaving sooner than expected, pulled him over, and made the arrest.

Around the same time, ICE officers watching the sixth location made a further arrest. They were looking for a 42-year-old U.S. resident from Mexico who was convicted in 2015 of two felonies: domestic violence and animal cruelty. He served nine months in jail but was released without ICE being notified and has been arrested twice in the last four months on lesser charges. They didn't find him, but they found somebody meeting deportation criteria leaving the house. So, for ICE it was five arrests in six locations this June morning around Riverside, Calif.

### WHAT'S IN A NAME?

**T**he county sheriff says Riverside is not any kind of sanctuary. Asked about its policy on detainees, a spokesman for the county police points to a two-page policy memo that concluded: "After a lengthy

legal review, the Riverside County Sheriff's Department will continue to notify ICE of pending releases that ICE specifically requests." Yet ICE says Riverside is not always cooperative. In the three national reports the Trump administration issued on communities that were declining detainer requests, Riverside showed up three times for failing to notify agents about pending releases during just the second week of February.

Does repeatedly releasing inmates sought by ICE make Riverside a sanctuary county? Or were these just mistakes and logistical snafus? It's hard to know how the Trump administration will crack down on sanctuary cities when it is difficult to define them. Estimates of the number of sanctuary jurisdictions nationwide vary widely, from 140 to 300.



*ICE says Fidel Delgado Guerrero, above, and his wife are eligible for deportation because they tried to cross into the U.S. in 2008 and were caught, though they have had no other run-ins with the law. Delgado later was released while deportation proceedings continue.*

In January, Trump signed an executive order giving the secretary of homeland security the power to deny federal grants to sanctuary jurisdictions. It's an effort that doesn't force them to comply—that would raise serious constitutional questions—but rather seeks to create an incentive for their cooperation. It's a strategy similar to the one that upped the legal drinking age to 21 in the 1980s: The federal government couldn't force states to raise their drinking ages, but they could turn off the spigot of federal highway money. With such a threat, states quickly complied. The threat of cutting off federal money is one reason why some cities are reluctant to label themselves a "sanctuary." They don't want to make themselves targets.



Some jurisdictions are fighting back, and the battleground, as with so much of the Trump agenda, is the courts. In April, a federal judge in Northern California, in response to a lawsuit by San Francisco and Santa Clara County, ruled that Trump has no authority to establish conditions for federal spending: “Federal funding that bears no meaningful relationship to immigration enforcement can’t be threatened merely because the jurisdiction chooses an immigration enforcement strategy of which the president disapproves,” the judge said.

Thirty-four cities and counties nationwide—including Los Angeles, Chicago, Seattle, Minneapolis, Denver, Austin, and Portland—plus the state of California filed briefs in support of the lawsuit. The AFL-CIO and two other labor unions also joined the legal resistance. The Trump administration argued that any court action was premature, since no money had actually been stripped. Chief of staff Reince Priebus told reporters after the ruling that it was another example of “the 9th Circuit going bananas” and that the administration would appeal. A White House statement said the ruling was “a gift to the criminal gang and cartel element in our country.”

Justice could certainly take a more punitive approach and level federal charges against the jurisdictions that most aggressively block efforts to enforce immigration law. Federal law says that it is a crime if somebody “conceals, harbors, or shields from detection” an immigrant who is in the country illegally. “I wouldn’t be at all surprised if they are looking at all of these cases and finding the right one to make an example out of somebody,” says Claude Arnold, a former head of criminal investigations for ICE’s L.A. field office. Such a move would clearly raise the stakes for local law-enforcement officials.

Another option is to deploy the Justice Department to offer more robust defenses of federal rights. In late June, the *Wall Street Journal* reported that federal lawyers are developing strategies to “win court rulings clarifying local jurisdictions’ requirements under federal law, effectively forcing them to abandon policies of not cooperating with federal officials.”

And legislation pending in Congress would strengthen the administration’s legal hand. In late June, the House passed two measures—including the one called “Kate’s Law” after Steinle—that would give detainees more heft, indemnify jails that hold illegal immigrants for ICE, increase criminal penalties for people returning to the United States who were previously deported, and allow the executive branch to cut off money to noncompliant jurisdictions.

The bills attracted slight Democratic support in the House, but winning Senate approval of the bills will be tougher, as Democrats promise to fight any Republican

measures opposing immigration. Sen. Bob Menendez (D-N.J.) told the *Hill*: “I will do whatever I can in order to stop them. These are only punitive in nature, [and] they don’t deal with the totality of the reality of our immigration challenge.” Blackman, the South Texas law professor, notes that courts have already found that detainees do not carry the same weight as judicial warrants and the new laws might not end the court battles. Efforts to restrict grants, he says, are on stronger legal footing.

What seems the most certain is that all of this will eventually be decided in the courts.

## THE DAY’S WORK

**A**t about 10:45 A.M. ICE officers unload their five captives at a processing center in San Bernardino, about half-an-hour away from Riverside. One at a time, the prisoners walk in, take off their shoes, and have their restraints removed. The Mexican nationals are questioned in Spanish:

*What is your full name?  
Do you have medical problems?  
Are you gay or transsexual?*

From there, they are moved to a holding cell. Within a few hours, they will likely be moved to an ICE detention center, probably in Adelanto, another 45 minutes north. The Mexicans who have been previously deported could very well be on a bus back to Mexico within a day or two.

At this point, ICE allows the media to ask those who were arrested if they would like to speak to journalists, which requires them to sign a waiver. Lucero and Delgado agreed to be interviewed. (ICE requested that we not identify the other three suspects.)

Lucero says he works as a gardener and has a lot of family here. He’s not sure if he will try to return: “I need to think hard about that.”

Delgado says it’s his first arrest in 16 years of living here. He says he works on a dairy farm, earning less than \$3,000 a month. ICE released Delgado that afternoon after determining he “posed no threat to public safety.” He was free to return to his wife and son, but his deportation case is ongoing.

Looking back on the day’s work, Marin, the local ICE head of enforcement, says catching three of six targets and two others is “representative of our daily operations. That’s what our guys are doing every single day.” He says it was a success because nobody got hurt.

He says he would be happy even if his team didn’t catch as many as they did today: “Even if we just caught one, that’s still one criminal alien who we removed from the country who is not going to commit any more crimes.” ♦

# Austen: The Personal and the Political

*Reading her novels on the bicentennial of her death.*

BY ALGIS VALIUNAS

I decided against Jane Austen, without having read her, at 21. I had gone up to Trinity College, Cambridge, to read English, and the first don I met was my tutor (tutors oversaw one's moral hygiene and general deportment, while supervisors handled the academic end). He was a voluble little dumpling of a man, a formidable legal scholar said to be panoptically cultivated, and he quickly set about probing my intellectual weaknesses with surgical precision. That I knew almost nothing of opera and had not read Goethe or Proust marked me a typical American dullard, though one perhaps with possibilities; but that I had never heard the name

CONTINUED ON PAGE 30

*Algis Valiunas is a fellow at the Ethics and Public Policy Center.*



*Did she hide radical messages in her books?*

BY MALCOLM FORBES

In December 1943, Winston Churchill contracted pneumonia on a visit to North Africa and found himself banned from work and laid up in bed. While convalescing, he asked his daughter Sarah to read him Jane Austen's *Pride and Prejudice*. It proved just the tonic. "What calm lives they had, those people!" he later wrote. "No worries about the French Revolution, or the crashing struggle of the Napoleonic Wars. Only manners controlling natural passion so far as they could, together with cultured explanations of any mischances."

He was by no means the first to hold such a view. In 1924, Rudyard Kipling published a story called "The Janeites" in which a group of World War I soldiers finds solace from the carnage in Austen's supposedly genteel drawing-room dramas. Other, earlier writers saw those

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cocooned realms and “calm lives” as mere froth and frippery—too trivial to give succor, too airy to carry weight.

Two hundred years on from Austen’s death comes a book that reassesses her life and repositions her work, rebranding both as far more serious—even subversive—than we may have previously imagined. Throughout *Jane Austen, the Secret Radical* (Knopf, 336 pp., \$27.95), Helena Kelly steers us away from the glossy TV and film adaptations, idealized biopics, airbrushed portraits, imaginative spin-offs, and well-worn tourist trail, pointing us back to what really matters: the original source material of six imperishable novels that legions of readers have come to know and love.

Only we don’t know them. Or, as Kelly explains at the outset, “We know wrong.” Austen’s novels are not only witty, ironical comedies of manners about love and marriage; they also contain subtle commentaries and critiques of the social and political concerns that affected, or plagued, Regency England. This was a time of immense upheaval. Britain was at war with France and faced the constant threat of invasion. Austen’s novels were written “in a state that was, essentially, totalitarian”: habeas corpus was suspended; the definition of treason was extended to include writing, printing, reading, and arguably even thinking. As a result, writers wrote warily. Austen was no different. According to Kelly, Austen revealed her beliefs about the controversial issues of the day in couched language, deftly embedding or encrypting them within her engaging accounts of domestic life or checkered relationships. She assumed that her readers would be able to read between the lines for meaning—“just as readers in Communist states learned how to read what writers had to learn how to write.”

For those of us unable to locate or decode Austen’s radical thoughts, help is at hand. Kelly is an Austen scholar. She first discovered Austen’s novels in her teens and then reread them through a classics degree, law school, and a doctorate in English literature. An Oxford University lecturer, Kelly has written academic articles and taught courses on Austen. In this, her first book, Kelly

offers close readings of Austen’s novels and analysis of the historical background that shaped them, teaching us “to read Jane as she wanted to be read.”

This is quite a claim, and Kelly’s book takes the form of an ambitious, at times audacious, corrective. Yet for the most part she succeeds in stripping away the soft-focus veneer of Austen’s fictional worlds and exposing a harsh reality of unjust acts and bitter truths.

Each of Kelly’s chapters is devoted to a single novel and its corresponding issues. First up is the first-written though posthumously published *Northanger Abbey* (1817), Austen’s shortest, slightest offering, whose main redeeming aspect is its send-up of the sensationalist Gothic novel. Kelly is quick to flag the novel’s shortcomings—reassuring her reader that this Austen aficionado doesn’t have a rose-tinted view that colors judgment and beautifies blemishes. Kelly also wastes little time in outlining *Northanger Abbey*’s radical credentials: It breaks taboos by taking the reader on transgressive forays into bedrooms and other private chambers, and along the way highlights the life-threatening dangers of pregnancy and childbirth. We witness Austen’s light touch as her heroine, Catherine, trades the “alarms of romance” for the “anxieties of common life.” However, the biggest anxiety of all is a barely acknowledged fact and, as Kelly puts it, no laughing matter: “sex can kill you.”

If *Northanger Abbey* shows that early-19th-century English women risked their lives falling in love, then *Sense and Sensibility* (1811) reminds us that due to primogeniture—which “amounted almost to a fetish,” Kelly writes—widows and daughters faced losing their financial security to first-born sons. Kelly continues to shatter our preconceptions: This is a novel in which “love and family, honor and duty, have hardly any meaning. Promises are made to be broken. Women are exiled from their homes. Guardians don’t guard.” The perfidious Willoughby may be the novel’s rogue, but Kelly rakes around and dishes up enough dirt to sully the good reputation of the two

male leads: Colonel Brandon is morally suspect while Edward Ferrars is “an unfaithful liar with (perhaps) troubling sexual inclinations.”

Kelly also points out that the colonel’s time spent in India constitutes “a black mark, a reminder of corruption, of avarice. Brandon is tainted by association.” In Austen’s difficult, somber, “inescapably political” novel of 1814 she went further and cut deeper. “*Mansfield Park* is about slavery,” Kelly succinctly declares. Early on in the novel, patriarch Sir Thomas Bertram and his son Tom depart for Antigua to oversee the management of their sugar plantation. We do not travel with them and do not see a single slave, but Kelly assures us that Austen is being subtle, not silent: References to colonialism and the slave trade can be found “if we look properly.” Kelly sorts and sifts, itemizes and analyzes, taking casual comments and seemingly innocuous subjects and objects—drinks, trees, addresses, reading material, even the book’s title—to be a trail of scattered clues with shady connotations and sinister subtexts.

Kelly’s chapters on *Emma* (1815) and *Persuasion* (1817) are particularly insightful. The former shows Austen’s artistic response to the devastating rural poverty unleashed by the Enclosure Acts; the latter redraws Austen as an author in tune to world events, one who skillfully sets a rekindled love affair against the downfall of dynasties and the erosion of religious certainties.

However, when Kelly turns her attention to Austen’s best-loved book she has mixed results. *Pride and Prejudice* (1813) is an effervescent novel, a joyful read (Austen herself described it as “rather too light & bright & sparkling”). Yet still Kelly traces black spots and rough edges. She finds fault with seemingly benign characters (affable observer Mr. Bennet is in actual fact “dangerously lax—ineffectual, incompetent”) and makes a valid case for Elizabeth and Darcy’s relationship being a dismantling of class barriers (“titles and blood,” Kelly argues, “count for very little”). We come away convinced that the book is not the lightweight escapist romance

Churchill believed it to be yet skeptical of Kelly's claims that it can be considered "an army novel" and that it is "a revolutionary fairy tale" with a heroine who is "a radical."

Where Austen was truly radical and revolutionary was in her fictional technique. The literary critic James Wood employs both those appellations in an essay on Austen: Her founding of character and caricature makes her "a natural revolutionary in fiction," and her use of interior monologues, anticipating modernist stream-of-consciousness, "constitutes her radicalism." Kelly ignores these innovations, eschewing style for content, which leaves her subject's achievements only partially examined and her book decidedly lopsided. There is also woefully little on Austen's juvenilia—most of it whimsical squibs and sketches but some of it pungent satire and riotous fantasies. "I murdered my father at a very early period of my Life," confesses one young lady in a grisly letter; "I have since murdered my Mother, and I am now going to murder my Sister."

Kelly's revelations are consistently riveting, but one or two elicit a raised eyebrow. Does Catherine's frantic, fumbling search through drawers and cavities in *Northanger Abbey* really look like "a thinly veiled description of female masturbation"? Are Austen novels truly of the same radical rank as anything written by Mary Wollstonecraft or Thomas Paine? Is her "continual drip" of politicized references seriously tantamount to "mind manipulation"? Kelly notes that *Mansfield Park* is "weighed down" with chains, the word cropping up 13 times. Lionel Trilling's long, incisive 1954 essay on the novel makes no mention of chains, let alone slavery. Did Trilling overlook a potent symbol or has Kelly overstated a humble object?

Still, Kelly hits more than she misses, providing ample textual evidence for Austen mocking the establishment and railing against social injustice. "Consequence has its tax," Austen writes in *Persuasion*, and Kelly's gimlet-eyed observations and rigorous sleuth-work shake our belief that Austen only serves up fair outcomes, happy

marriages, and trouble-free endings.

Despite the palpably dark layers in her novels, we will never know for sure Austen's true intent and purpose. Kelly gives no evidence of any of Austen's contemporaries professing to "get" her in the way she wanted to be got. More tellingly, Kelly finds no record of Austen disclosing a "real" agenda. The nearest we come to that is a letter in which Austen talks about wanting readers who have "a great deal of Ingenuity"—which Kelly takes as readers "who will read her carefully"—that is cannily, laterally. This, though close, is not close enough.

Kelly's aim of teaching us to read Austen as she wanted to be read is a noble one, but really she is teaching us to read Austen as Kelly wants her to be read. This is no bad thing—as long as we don't take each of Kelly's bold assertions as hard fact. *Jane Austen, the Secret Radical* is astute, illuminating, and vastly entertaining. It may not completely alter our perception of Austen but it does give us a refreshing new slant on her work and, in so doing, helps us appreciate her anew. ♦

## VALIUNAS CONTINUED FROM 28

Emma Woodhouse got me unforgiving torrential scorn. Had I really gone to an Ivy League college? If so, what did that say about American education, and about me? How could I presume to keep company with the brilliant native students who had read everything and knew Jane Austen as they did Shakespeare? When our interview was over, I thanked my tutor for his counsel and vowed silently that I would do my best to avoid him in the future and that I would never have anything to do with Jane Austen. Cambridge English at the time was cosmopolitan and serious; I spent my first term reading Dostoyevsky and Tolstoy, ecstatically. Jane Austen I did not touch for 40 years. A matter of pride and prejudice.

One can cite authority from several directions on aversion to Austen. Madame de Staël pronounced her work "vulgaire," presumably because Austen failed to appreciate

the charms of adultery for persons of refinement. Charlotte Brontë dismissed her as bloodless: "she ruffles her reader by nothing vehement, disturbs him by nothing profound: the Passions are perfectly unknown to her." Mark Twain said reading her distressed him as though he were "a barkeeper entering the Kingdom of Heaven."

This month marks the two hundredth anniversary of Austen's death, she has never been more popular than now, and the evidence of her triumph is largely appalling—as witness the members of the Jane Austen Society of North America playing dress-up in egg-cozy Regency gowns at the ball that ends their annual meeting. Clearly, Austen ninnies have a lot to answer for.

In *Among the Janeites: A Journey Through the World of Jane Austen Fandom* (2013), Deborah Yaffe pinpoints the event that ignited the Austen explosion: a scene in the 1995 BBC adaptation of *Pride and Prejudice*, in which the excessively handsome actor

Colin Firth, playing the overheated Mr. Darcy, dives into a pond fully clothed to cool off and emerges with his wet white shirt clinging to his torso. Such an unseemly soaking never took place in the novel, but the filmmakers clearly knew what they were about: the year after the miniseries appeared, attendance at the Austen home and museum in Chawton doubled, to 57,000 visitors.

Popular movie and TV versions of all the other novels appeared at the same time or followed in rapid succession. A particular hit was *Chueless* (1995), which recast Emma among a Beverly Hills high school crowd. Distortions on the way to the screen were inevitable. In Austen's version of *Mansfield Park*, Sir Thomas Bertram and his eldest son are absent from the scene for quite a long time, having gone to Antigua to look after the family plantation there. The Empire as mainstay of commercial aristocracy remains an offstage presence. But in Patricia Rozema's 1995 film of the novel, as the son lies near death, the



innocent heroine, Fanny Price, finds drawings that he made, clearly from life, of white masters raping their black slaves, including one of Sir Thomas, played here by Sir Harold Pinter, being felled. This invention of Rozema's is as grotesque as it is heavy-handed.

The Austen boom set off by the movies has seen an abundance of semi-literary sequels and knockoffs, some getting down and dirty, others adding zombies to the *dramatis personae*. And as Yaffe writes, fans can now "buy Jane Austen tote bags, mugs, board games, T-shirts, or bumper stickers," as well as a "Jane Austen Action Figure (five inches of molded plastic, complete with quill pen)."

So Jane Austen came to represent the worst of both pseudo-aristocratic fastidiousness and hyper-democratic inanity: a particularly British (and anti-American) intellectual and social snobbery; a (frequently American) wistfulness for archaic proprieties, manor houses of mellow golden stone, and romance elegantly choreographed for legless angels of both sexes; and the inescapable crassness of the merchants and moviemakers and those who love them.

In spite of all that, mindful of an impermissible deficiency in my literary upbringing, I recently broke down and read Austen's six novels. Their intelligence, wit, emotional discernment, and perfect prose proved entirely winning. Austen is master of the plain style, exceptional by being unexceptionable. The unrelentingly correct prose bespeaks a corresponding moral probity, for clarity of understanding is the *sine qua non* of virtuous behavior, and thereby of happiness. The occasional flourish of quietly devastating wit enlivens the day, but Austen never falls into self-display, advancing her stories at a steady clip, steadiness being a prime quality of hers. It is no wonder Charlotte Brontë belittled her; the Brontës in their unpruned witchy

extravagance seem like the Weird Sisters by comparison.

In *Sense and Sensibility* (1811), Elinor Dashwood's summary case against the villainous Willoughby, who really loved her sister Marianne but jilted her for a bride worth 20,000 pounds, recognizes that the crime against his own best feeling will bring him long-lasting suffering: "The world had made him extravagant and vain—Extravagance and vanity had made him cold-hearted

riage settlement provide the occasion for an unexpected display of magnanimity on the part of Mr. Darcy, who thus proves himself worthy of Elizabeth Bennet, the most desirable Austen heroine; Henry Crawford in *Mansfield Park* (1814), whose considerable but ambiguous charms fail to win the hand of the prized ingénue Fanny Price, and who proves himself unworthy of love and friendship by running off with her corrupt married cousin, while Fanny settles down with the clergyman Edmund Bertram, whom she has loved all along.

Austen deals hard blows to snobbery, and self-love fatally abetted by want of self-knowledge is the snob's downfall, or at least comeuppance. Emma Woodhouse, the willful and emotionally purblind heroine of *Emma* (1815), is rich, beautiful, clever, intellectually lazy, and convinced at 20 that she will never want to marry, for she has all she could ever need as virtual mistress of her widowed father's grand house and no prospective husband could be good enough. Emma diverts herself by dissuading a silly and pliable

young friend, Harriet Smith, from marrying a good-hearted farmer who loves her and by encouraging her to fall in love with a vain minister who falls in love with the unwitting and outraged Emma instead. Emma also tries out the idea of being in love herself with a newcomer to their little town, Frank Churchill, with the eventual intention of turning him down when he asks to marry her, as she is confident he will; but he is in fact secretly engaged to Jane Fairfax, whom Emma dislikes as her superior in beauty, education, and musical skill.

Though she gets everything hopelessly wrong, Emma is saved from herself by her closest friend, Mr. Knightley, an older man who angrily dresses her down when she wittily insults a poor, dim, and garrulous neighbor. Reduced



*Darcy in the drink: the iconic scene with Colin Firth*

and selfish. . . . Each faulty propensity in leading him to evil, had led him likewise to punishment." Sins against love can be both unforgivable and unforgiving, and love of money or of rank is the besetting cause of such sin.

Scoundrels are thick on the ground, not hiding under rocks but abroad in full daylight, posing as heroes so that true heroes may disclose themselves: John Thorpe in *Northanger Abbey* (1817), whose self-aggrandizing fabrication about the supposed fortune possessed by the heroine, Catherine Morland, leads to her temporary disgrace and nearly foils her chance at true love with the Reverend Henry Tinsley; Wickham in *Pride and Prejudice* (1813), whose seduction of the 15-year-old numbskull Lydia Bennet and extortion of a handsome mar-

to tears by his tirade, Emma finally wises up and flies right, realizes she must marry Mr. Knightley, preposterously fears he loves Harriet instead, but in the end gets her man. Perfectly plotted, psychologically acute, wonderfully funny, and offering regeneration even to a dubious heroine far-gone in vanity, *Emma* is Austen's finest novel, and one of the best in the English language.

Jane Austen, who died a spinster at 41, was the patron saint of romantic second chances. Her heroes and heroines *earn* their eventual happiness, by overcoming seemingly insuperable impediments thrown up by fortune, society, and above all their own character. And happy is the reader who finds his or her way to Austen, whatever impediments might seem to block the path. ♦

BCA

# Fuzzy History

*A flawed account of the NYPD's evolution.*

BY VINCENT J. CANNATO

Over the last quarter-century, America has witnessed a remarkable decline in urban crime—most notably in New York City, where murders dropped from a record high 2,245 in 1990 to 335 in 2016. This drop coincided with a change in police practices, with the NYPD leading the way in more active policing. Academics still debate how much of the decline in crime is due to policing, as opposed to increased incarceration or demographic trends.

Recently, however, there has been pushback against the kind of policing the NYPD pioneered. “Stop and frisk” has faced court challenges and promises of reform by the city’s Democratic mayor. Black Lives Matter has brought the issue of police shootings of minorities to the national agenda, while more Americans, including some conservatives, worry about over-policing and over-incarceration.

Some of these criticisms simplify and exaggerate the problems, yet they point to a broader unease about police violence. Granting fellow citizens the right to use violent force against the public presents a moral and politi-

**Law & Disorder**  
*The Chaotic Birth of the NYPD*  
by Bruce Chadwick  
Thomas Dunne, 384 pp., \$28.99

cal dilemma in a democracy. Law enforcement is necessary for civil order, but the public also needs safeguards to ensure that the police do not abuse their authority.

The first professional, trained municipal police force in the United States dates back only to the 1830s. Americans in the early republic were leery of creating such armed forces, perhaps still smarting from the armed occupation of British troops leading up to the revolution. The boisterous urban culture of Jacksonian America would not succumb easily to the authority of the police.

How New York City came to create its own police force is the subject of Bruce Chadwick’s vivid yet deeply flawed popular history *Law & Disorder*. New York’s population grew rapidly in the mid-19th century, from 152,000 in 1820 to 696,000 in 1850. Irish immigrants, flooding into the city’s poorer sections, accounted for much of that growth. Crime rates, including murder rates, rose rapidly. Riots were not uncommon.

The city lacked an organized police

force to deal with the crime and disorder, relying instead on ragtag crews of night watchmen, city marshals, and constables—men more interested in earning fees for solving crimes and pleasing their political patrons than in creating an orderly city.

Inspired by London’s new police force, New York officials created a full-time professional police force in 1845 to patrol the streets. In 1857, the Republican-led state government created its own police force for the city, the Metropolitans, in a bid to weaken the power of city Democrats—so that, for a few months, the city had two police forces. (After some police-on-police violence, the courts intervened and the Metropolitans were declared the new official force.) By the late 1800s, crime rates declined as the city’s police force grew.

Insofar as *Law & Disorder* sticks to that story, the book offers a reasonable look at 19th-century New York life. Yet page after page, Chadwick traffics in gross exaggerations, hyperbolic prose, and skewed interpretations.

The problems start as early as the short “Author’s Note” that opens the book. “The crime wave that engulfed New York” prior to the Civil War, Chadwick writes, “was perhaps the biggest in the history of the United States.” This is the entire premise for his book: that antebellum New York was one of the most crime-ridden cities in American history. But that premise is utter nonsense.

Crime statistics for the 19th century are not completely reliable, but enough work has been done to give us proximate data on crime for those years, and Chadwick correctly presents those data. In a chapter entitled “Crime Everywhere,” he notes that the murder rate in New York City during the 1830s was about 4 per 100,000 residents; by 1850, the rate had climbed to around 13 to 14 per 100,000 residents. These were “extraordinary rates rarely seen again in U.S. history,” Chadwick breathlessly informs his readers.

But anyone with passing knowledge of recent New York history should know that for the 30 years between the

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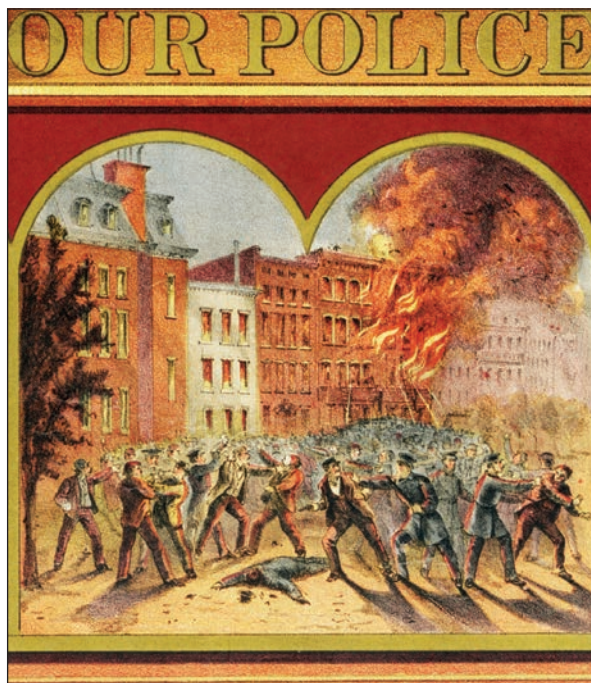


mid-1960s and the mid-1990s, New York City experienced a murder rate higher than that of the supposedly horrible 1850s. New York's murder rate in 1970 was over 15 per 100,000 residents. By 1980, it was over 25, and by 1990 it was nearly 31—two and a half times the rate of the 1850s.

Let's move away from New York and look at recent murder rates in other American cities. Chicago, which has recently attracted a great deal of publicity for gun violence, had a murder rate of 28 per 100,000 residents in 2016; Detroit's rate in 2015 was almost 44, while Baltimore and St. Louis in 2015 saw rates of 55 and 59 respectively. And if we want to look at one of the worst murder rates in recent years, that would be New Orleans in 1994 at about 86 murders per 100,000 residents—seven times the rate of New York in the 1850s. So much for Chadwick's claim that the antebellum years were "the most violent and crime-ridden era in both New York City and American history."

Chadwick even cites data on abortions—"one estimate was that there was one abortion for every four live births" in New York in that era—implying that if they were counted in the official crime rates it would bolster his case about life in 19th-century New York. Unfortunately for Chadwick's thesis, current abortion statistics are even grimmer. In 2014 there were over 63,000 abortions in New York, meaning that there was one abortion for every two live births in the city that year.

Of course, Chadwick's distortions do not mean that mid-19th-century New York was paradise; it was a disorderly city full of brothels, saloons, and gambling dens. Chadwick notes that there were over a quarter-million arrests between 1845 and 1853. Half of those arrests were for public drunkenness, disorderly conduct, and vagrancy. Fighting was common and at times it could turn into full-fledged riots.



*New York municipal police breaking up a riot (1873)*

High-profile murders, such as that of the prostitute Helen Jewett, would periodically grab public attention. In addition, New Yorkers had to deal with deadly diseases like cholera and tuberculosis. The city was developing a clean supply of water delivered through a system of aqueducts, but sanitation and other public health services were still primitive.

Subtlety is not Chadwick's forte, so instead of telling this rich and fascinating story of a rough-and-tumble city, he resorts to over-the-top descriptions that misrepresent the real history. "There was crime, crime, and more crime in the streets, literal death in the air," he writes. "There seemed to be burglars, killers, and robbers in every neighborhood." Elsewhere, Chadwick claims that streets of New York were "covered with rivers of blood."

One reason for Chadwick's faulty analysis is his sources. His assertions seem sensationalistic because he mostly relies on sensationalizing newspaper stories from the period. Rather than interpreting them for us with appropriate skepticism, Chadwick simply rehashes their rhetoric. If Chadwick ever writes a history of the Spanish-American War, readers

should be prepared for descriptions of the dastardly attack on the battleship *Maine* by the perfidious Spanish military.

Relying on such sources, Chadwick cannot provide a reasonable look at what life was actually like for most people. "Many of those who lived there hated it, mostly because of the crime threat," writes Chadwick. The entirety of his proof that "many" New Yorkers hated living there is a single quotation from reformer Charles Loring Brace (born and raised in rural Connecticut).

If New York were as horrible as Chadwick claims, why did so many people move there in the mid-1800s? That is the kind of question that should animate a historian. Yes, many unfortunate souls died young from crime and disease, or saw their lives ruined by alcohol-

ism, prostitution, and tough working conditions. But many others survived and earned enough money to raise the standard of living for their families ever so slightly. That's the real story of New York.

Chadwick suffers from what we might call the "*Gangs of New York* problem." Martin Scorsese's 2002 movie paints the notorious Five Points neighborhood as a gang-infested wasteland of violence. Chadwick's chapter on the neighborhood is similar, titled: "Five Points and the Boundaries of Hell." What is missing from both Scorsese's movie and Chadwick's history is a window into the lives of the average Five Points resident, struggling to survive amid difficult conditions. At one point, Chadwick writes: "Reformer Lydia Child was one of the few women adventuresome enough to explore Five Points." Well, I'm pretty sure there were lots of working-class women who lived in Five Points.

Chadwick makes very little use of Tyler Anbinder's well-researched history of Five Points, which portrays the neighborhood with a nuance missing from *Law & Disorder*. Anbinder notes the number of poor

immigrants in Five Points who managed from their menial labors to open up modest bank accounts at Emigrant Savings Bank. Eventually, many residents of Five Points and other poor districts would move to slightly better neighborhoods and slowly improve their lots in life.

Instead, Chadwick gives his reader an oddly neo-Marxist analysis, arguing that workers suffered from a “loss of self-respect that brought about alienation.” With little evidence, he argues that “life for the unskilled laborers did not improve” because “the new jobs were all low-paying menial work.” Yes, if only those poor 19th-century New Yorkers had access to all of those high-paying STEM jobs.

Chadwick goes on to note that while crime was increasing in American cities, it was decreasing in Europe. His novel explanation: “People in those [European] countries had their faith in their nations not only restored but strengthened by far-ranging sets of laws that gave all the people more power and control in the governmental system.” All of which raises an obvious question: Why then did millions of Europeans during the 19th century leave such enlightened rule and come to the American cities whose streets were filled with “rivers of blood” and that could only offer them “low-paying menial work”?

Chadwick seems to have missed that this was the age of Jacksonian democracy, an era of universal (white male) suffrage. Many average citizens felt empowered. A good deal of the disorder that Chadwick locates in the city was a product of the lower classes flexing their newfound powers, often by controlling urban street life and political machines. And much of the contemporaneous criticism of the city by middle-class reformers and the wealthy—the sources on which Chadwick relies almost exclusively—is a product of their fears of the unruly and newly empowered working class, in addition to their loathing of Irish Catholic immigrants.

Crime would eventually decline in New York in the late 1800s and remain fairly stable until the early

1960s. Yet Chadwick fails to explain why crime rates fell and the role of the new professional police force in aiding that decline.

It is a shame, because he ends the book by correctly noting that the “suc-

cess of the NYPD, over the long run, after all of its troubles, paved the way for good policing in America.” That is a story that deserves to be told. Unfortunately, the reader won’t find it in *Law & Disorder*. ♦



# Snob Rock

*Pink Floyd, Jethro Tull, Yes, and the intellectual ambitions of prog rockers.* BY BRENDAN P. FOHT

It’s May 1975, and thousands of Britons have Wembley Arena tickets to see Rick Wakeman—keyboardist and singer, until lately of the band Yes—perform his new solo album, *The Myths and Legends of King Arthur and the Knights of the Round Table*. Wakeman had been planning a spectacle: He assembled an orchestra, choir, and cast of actors. But then he learned that Wembley was set to host a figure-skating show after his concert, and the arena would already be covered in ice. Deciding to take advantage of the situation, he hired skaters to dress as horses and knights, depicting a clash between Sir Lancelot and the Black Knight.

This kind of excessive showmanship was part of what attracted fans to the strange musical movement known as progressive rock. In *The Show That Never Ends* (named for lyrics from Emerson, Lake & Palmer), *Washington Post* political reporter David Weigel recounts stories like this from the glory days of “prog” in the 1970s, when bands such as Yes, King Crimson, Pink Floyd, Jethro Tull, and Genesis composed long, erudite, allusive songs about outer space, ancient myths, dreams of the future, and, in the words of Yes singer Jon Anderson, “discovery of the self and connection with the divine.”

Why the music is called “progress-

## The Show That Never Ends

*The Rise and Fall of Prog Rock*

by David Weigel

Norton, 368 pp., \$26.95

sive” has never been entirely clear, and many of the most representative bands didn’t use the label to describe themselves. As with any artistic genre, precise definitions are disputed and boundaries are fuzzy: Debates about whether this or that band (or this or that album or period of a band’s work) is *really* progressive are a favorite pastime of fans. But the general idea is clear enough. In Weigel’s apt summary, prog had three main musical characteristics: retrospection, with artists looking to English and European influences rather than to contemporary American pop; futurism, using the newest techniques and instruments, like the Moog synthesizer or Mellotron keyboard; and perhaps most importantly, experimentation, with prog artists writing music with “19/8 rhythms, polyrhythms, polytonality,” and other unusual and challenging musical methods. Well-known prog-rock songs include Pink Floyd’s “Shine On You Crazy Diamond,” Yes’s “Roundabout,” and Rush’s “Closer to the Heart.”

Weigel describes prog as “rebellious music,” but prog’s was not the youthful, angry rebellion we think of when we think of rock music. Not only did prog lyricists eschew the themes of

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resentment and cynicism we find in other rock music, but the musicians drew from more staid traditions of classical music and even Anglican hymns. Conservative political theorist Bradley J. Birzer has compared the music to Imagism in poetry, writing that prog “takes a modern form, and it fills and animates it with a well-

all time, while prog bands Yes, Rush, Genesis, Kansas, and Jethro Tull have all sold more than 10 million albums in the United States alone.

Though progressive rock received some critical acclaim during its heyday in the early 1970s, by 1978 a backlash was well underway, with critics griping about the pretensions and bombast.



Rick Wakeman performing with Yes (1978)

ordered soul, an essence commensurate with its form.” (There are also, to be sure, left-wing interpretations of the genre, such as Marxist social theorist Bill Martin’s argument that the music of bands like Yes is an affirmation of a sense of utopian possibility; even for leftists, then, what is valuable in prog is not how it represents the rebellious liberation from constraints of tradition but how it manifests a sincere hope for a better future.)

One thing the prog rockers *were* rebelling against, Weigel writes, was “the standard pop song structure.” But even against pop music, prog was not simply and reflexively iconoclastic—one of its major influences was the Beatles’ *Sgt. Pepper*. And while there is no question that progressive music was something very different from the pop music of its day, or of today, it was exceptionally popular: Pink Floyd remains one of the bestselling acts of

(This critique had to some extent been present from the beginning: In a 1968 review of *Music from Big Pink* by The Band, Richard Goldstein wrote that “much of what we cherished in progressive rock is musically advanced but emotionally barren. The indulgence of a new, cerebral audience has endangered that raw vitality which was once a hallmark of the rock experience.”) Critics (and record labels) embraced the new punk movement, with its supposed authenticity and primal simplicity. The punk-vs.-prog conflict is a bit of conventional wisdom that is sometimes exaggerated; Weigel notes that few prog artists from the 1970s resented the more straightforward music that succeeded theirs. But conventional wisdom usually has at least a grain of truth to it, and there was certainly a stark contrast between a joyful and ornate concept album like Yes’s 1973 *Tales from Topographic Oceans* and the

angry minimalism of the Clash’s 1977 eponymous debut. Looking at novels like Jonathan Coe’s *The Rotters’ Club* (2001), a nostalgic story of the British music scene in the 1970s, Weigel identifies the directness and intensity of punk as the obvious form of rebellion against the supposed excesses of prog.

None of the punk acts that superseded prog in critical acclaim and supposed cultural significance—the Ramones, the Clash, the Sex Pistols, to say nothing of their epigones—come close to the same popularity. And yet, in cultural and even academic circles, prog is marginalized. *Rolling Stone* will gladly publish a list of the top 25 movies about punk rock, reflecting on the cultural meaning and significance of Black Flag bassist “Chuck Dukowski’s Colt 45-induced giggling” in the aptly titled 1981 documentary of the L. A. punk scene, *Decline of Western Civilization*. But few filmmakers have made anything worth watching about prog rock.

As for academics, a search for “punk rock” in the JSTOR database of academic journals finds 25 times as many results as for “prog rock.” Washington, D.C.’s public library even hosts a “punk archive” dutifully preserving old zines and Fugazi posters from the 1980s as culturally significant artifacts of the city’s once-thriving punk scene.

According to indie songwriter and erstwhile punk Ted Leo, there was theory behind the “primitivism” of punk groups like the Ramones. This same point was made more eloquently by Iggy Pop, who in a 1977 interview said of Johnny Rotten (of the Sex Pistols), “I’m sure he puts as much blood and sweat into what he does as Sigmund Freud did.” (Iggy was not modest about his own work either, saying that “what sounds to you like a big load of trashy old noise is in fact the brilliant music of a genius: myself.”)

In one of the most infamous sections in *The Closing of the American Mind*, Allan Bloom complained that young people were listening only to rock music and not to classical music—and that rock music appealed exclusively to the passions, leaving no room for refined, more rationally

FIN COSTELLO / REDFERNS / GETTY

guided sentiment. Bloom's assessment of rock music could not be less true of prog, with its elaborate concept albums and musical complexity—to say nothing of the way it was influenced by and carried forth the tradition of European classical music. Here was music that was challenging to compose and to enjoy, and that did not appeal exclusively to the passions (certainly not the sexual passions—whatever the “beat of sexual intercourse” Bloom said rock music was played in, it isn't in 19/8 time).

And yet, while prog offers a counterexample to Bloom's dreary assessment of pop music, the critical backlash against it, and its ongoing dismissal as a pretentious failure, may vindicate Bloom's claims about the rot in American intellectual culture. The remarks of reflective punk musicians like Ted Leo or Iggy Pop about the intellectual significance of the raw emotionality of their music echo what Bloom said of the significance of rock in general, that it is used to “cultivate the enthusiastic states of the soul and to re-experience the Corybantic possession deemed a pathology by Plato” and “to tap again the irrational sources of vitality, to replenish our dried-up stream from barbaric sources.”

As Weigel observes, “We place an awful lot of emphasis on sincerity in music, and we assume that rawer, more automatic songs are de facto more sincere than music that's overly studied and composed.” The rise of prog rock shows that it is possible to have artistically ambitious and intellectually sophisticated modern music that embraces and draws on rather than rebelling against artistic tradition, and even that such music can have a large popular following. But prog's fall from popularity and its critical rejection suggest just how much currency the more primal and raw emotions have, both for the masses and (especially, ironically) for those who purport to speak seriously about arts and culture. We can at least hope that books like *The Show That Never Ends* will encourage more people to rediscover this strange and wonderful piece of musical history. ♦

GREGORY BULL / AP

BCA

# Cup Half Empty

*How to fix the world's most prestigious sailing race.*

BY ANGUS PHILLIPS



*New Zealand leads USA during the fourth race of the America's Cup in Bermuda (2017).*

Well, that was quick! The 35th America's Cup was over in a heartbeat. It took barely a month for Emirates Team New Zealand to buzzsaw through a fleet of four challengers before shellacking the U.S. defender, Oracle Team USA, 7-1, to snatch yachting's oldest prize. This was not your father's America's Cup—the boats were 50-foot dragonflies skeeting across the water on hydrofoils at nearly 50 mph and the sailors wore armor, not Izod Lacoste.

Now what?

As a proud senior member of SINS, the Society of International Nautical Scribes, a group that historically holds just one beer-infused meeting every three or four years on the first lay day of the America's Cup match, wherever it is, I think I deserve a say, even if I did miss the last meeting. I say let's Make America's Cup Great Again.

*Angus Phillips was the outdoors editor of the Washington Post for 30 years.*

As a reporter for the *Washington Post*, I covered every Cup from Dennis Conner's successful defense in Newport, R.I., in 1980 to Larry Ellison's weird win in Valencia, Spain, in 2010. I watched the America's Cup sail off to Australia in 1983, come back in 1987, then go away again (to New Zealand) in 1995. I even sailed in some Cup trials, on Team New Zealand in 1995 and Ellison's Oracle in 2000, as nonparticipating 17th man.

The most exciting events I saw were in 1983, when *Australia II*, the wing-keeled wonder from Down Under, beat Conner's *Liberty*, 4-3, to end the New York Yacht Club's 132-year stranglehold on the Cup, and 1987, when Conner went to West Australia in *Stars and Stripes* and won the “Auld Mug” back from a fleet of 16 other entrants in the wild winds and churning seas off beautiful, breezy Fremantle.

Those were drama-filled events that dragged on and on in grand, slow boats. The Cup summer of 1983 began in June and ended in September, and the Australian spectacle four years later started





*Lost glamour: The crew of Intrepid celebrates with champagne after crossing the finish line of the America's Cup (1967).*

in October and ended in February. It meant months of intrigue, drama, and champagne-soaked social events that ink-stained wretches like newspaper reporters could only dream about the rest of their lives. What glamour!

The little whiz-bang Cup final in Bermuda in June lasted only 10 days and was laughable by comparison. The races were 20 minutes, so they could cram TV commercials in, and most of the time the boats were so far apart they couldn't fit in the same frame. Was it cool to watch a sailboat go 45 miles an hour? Sure, for a little while—and if you call a 50-foot, hydrofoiling catamaran a sailboat.

I watched the first race of the 2017 America's Cup at the Oar on Block Island, a sailor's bar if ever there was one, where you can get a shower and a Narragansett draught for \$5, all up. Patrons at the Oar can tie a bowline behind their backs. It was opening weekend of Block Island Race Week, and the place was jammed with yachties. But almost nobody was watching the sport's premier event on the television, and the few that were had the same take: "I hope New Zealand wins."

Well, the Kiwis did, emphatically. Now the hope is they will do the right thing and turn the Cup back into a sail-

ing event instead of a crude reality-TV show. I'll risk sounding like a fuddy-duddy: Bring back monohulls, and sailors in shorts and polo shirts.

I know scores of great sailors but I don't know any that wear flak vests and helmets when they race, and none of them trims wings and underwater appendages with an Xbox. They don't pedal a stationary bike to build hydraulic pressure when they go sailing or wear oxygen bottles on their back in case the rig comes down in a catastrophic crash.

The reason people love the America's Cup, or used to, is that it embodies grace and style and glamour. It is wretched excess at its glorious best. The truest explanation of the Cup's appeal was the following comment from Annapolis-based yacht designer Bruce Farr, who drew the lines for several Cup entries: "The America's Cup isn't about making money; it's about spending money."

That's the charm. That's what brought bigger-than-life figures like Harold S. Vanderbilt, Sir Thomas Lipton, Baron Marcel Bich, T.O.M. Sopwith, Bill Koch, and their pals to the game, along with the world-class sailors they hired, like Buddy Melges and Charlie Barr, Lowell North and Dennis Conner.

Why do people love Wimbledon, the Kentucky Derby, the World Series, the Olympics? Tradition. The grass courts were the same for Margaret Court, Martina Navratilova, and Serena Williams. The rackets are a little better, the costumes slicker, the athletes fitter, but the game is the same; the rules are the same.

The 1,500-meter Olympic final doesn't get shortened to fit into a broadcast schedule, and a baseball game can still go on all night if nobody scores the winning run. A soccer field is 22 guys and a ball. Maybe some broadcast genius thinks it would be better if everybody could use their hands, or if the goalie could use a big fishing net. But they can't.

The America's Cup has painted itself into a silly little corner, playing to the fantasy that by abandoning the audience it built over 175 years, it can attract a new audience of couch-slouch thrill-seekers who get their kicks watching high-speed crashes on TV.

But the cup is in Kiwi-land now, the land of the long, white cloud, tucked away in Auckland, a seaside town that calls itself the "City of Sails." These folks know what a sailboat looks like. Will they do the right thing? One can only hope.

◆ ASSOCIATED PRESS



# Meek but Mighty

*Soft heroes and softer villains deliver a fun ride.*

BY JOHN PODHORETZ



Ansel Elgort as Baby with Lily James as Debora

Automobiles, pop songs, and movies form a golden braid as eternal as the one that binds Gödel, Escher, and Bach. In 1980, the writer-director Paul Schrader released *American Gigolo*, whose first three minutes mostly feature shots of Richard Gere driving a black Mercedes convertible along the Pacific Coast Highway while Blondie's "Call Me" plays on the soundtrack. There is something ineffably galvanizing about Gere's whipping hair, the calm Pacific Ocean, the pulsating music, and the quick cuts to the spinning hubcap with the Mercedes logo on it—the whole scene puts the "motion" in "motion picture." Even though the rest of the movie stinks, those opening minutes made *American Gigolo* a hit. And to this day, the only thing anyone remembers about it is the black Mercedes convertible.

*Baby Driver*, the surprise summer hit from the British writer and director Edgar Wright, is an exercise in style that doesn't have an idea in its head. Instead, *Baby Driver* has guns. It has great songs. It has dancing. It has beautiful girls. It has beautiful guys. It has bank robberies. It has a cute couple who meet cute and remain cute. It has Kevin Spacey

## Baby Driver

Directed by Edgar Wright



spitting out bons mots almost as fast as Rosalind Russell in *His Girl Friday*. Most important, it has cars.

Spacey plays Doc, who organizes robberies in and around Atlanta. He brings in a different crew of thieves for each heist. But he always has a silent kid with an iPod and headphones behind the wheel of the getaway car. The kid is called Baby, and he's played by the sweet-faced Ansel Elgort. The other crooks rag on Baby because he's uncommunicative; it's Wright's amusing conceit that living in the world of the criminal is basically like being eternally in fourth grade, only the bullies have guns and gold teeth. Baby's antagonists accuse him of being mentally challenged, but they can't argue with his results. Baby essentially choreographs his vehicular escapes from Atlanta's finest to synchronize with the music playing in his ears. The cars spin and whirl and leap as though they were in a dance competition.

Wright, who made his reputation with amusing and bloody comic genre mashups like *Shaun of the Dead* (a zombie picture) and *Hot Fuzz* (a buddy-cop

movie), has thought through every frame of *Baby Driver*. Its sequences are shot and timed with astonishing precision, more like Busby Berkeley musical numbers from the 1930s than Michael Bay-style horror in which there is a cut every five seconds. You know where and in which direction Baby is driving at every moment. This means you know how he's getting into trouble—essential information if you are to be delighted by how he avoids disaster time and again. This is action directing of a very high order.

Baby meets Debora (Lily James), a waitress at the diner where his mother worked before she was killed in a car crash during an argument with Baby's abusive father. Wright wisely slows the action down so that we can see the two of them fall for each other in real time. They are both wide-eyed innocents hoping for an escape. Baby is the least hardened career criminal in history. It turns out Baby once hotwired and wrecked Doc's car and is paying off an immense debt to the gangster, who has also threatened the life of Baby's wheelchair-bound foster father. Even so, Doc admires and has avuncular feelings toward Baby; he explains to the hostile psychopathic robbers that Baby is afflicted with permanent ringing in his ears from that long-ago car crash. He can only drown out the maddening tinnitus by listening to music through his headphones.

Only one thing keeps *Baby Driver* from being a disreputable classic: Its villains are lousy. They're played by Jamie Foxx and Jon Hamm, and the two of them have very little edge. Hamm's character spends the last third of the movie menacing Debora and threatening Baby's life, but Hamm has no gift for intimidation. If you're not frightened by an action picture's villains, or angered by them, then you don't want to see them dead. And if you don't want to see them dead, then the movie that contains them just isn't going to have the visceral oomph that can turn a beautifully crafted piece of work into pop-culture swill for the ages. Still, *Baby Driver* has those cars dancing to a buoyant soundtrack, and together they do deliver a terrific kick.

John Podhoretz, editor of Commentary, is THE WEEKLY STANDARD's movie critic.

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**— ZestyNews.com, June 27, 2017**

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